DECISIONS

OF THE

RAILROAD COMMISSION

OF THE

STATE OF CALIFORNIA

VOLUME XX

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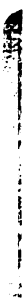

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CALIFORNIA RAILROAD COMMISSION DECISIONS.

DECISION NO. 9034.

ALBERS BROTHERS MILLING COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1463.

Decided June 1, 1921.

Sullivan, Sullivan and Theodore J. Roche, by *George D. Squires*, for Complainant.
C. W. Durbrow, for Southern Pacific Company.
G. H. Baker, for Atchison, Topeka and Santa Fe Railway Company.
Mr. Van Dyne, for Oakland Chamber of Commerce.
F. K. Clifford, for Sperry Flour Company.

LOVELAND, *Commissioner*.

OPINION.

The complainant is a corporation, organized under the laws of the state of Oregon, and is a manufacturer and dealer in grain, grain products, flour, cereals and cereal products, with offices in the city of San Francisco and a mill at tide water, Oakland, adjacent to Oakland Wharf, located on the rails of the Southern Pacific Company.

The allegations in the complaint are that the grain rates to and from the mill at Oakland should be just, reasonable and nondiscriminatory as compared with rates on the same commodities to and from South Vallejo, where are located competing mills. The rates in effect at the time this proceeding was commenced averaged from one-half to five cents per 100 pounds, or from 10 cents to $1 per ton greater than rates for equidistant hauls on the same commodities contemporaneously in effect to and from South Vallejo. Reparation is asked for.

The charge of the unreasonableness of the rates per se, although included in the complaint, received but little attention. The real cause of the complaint is the alleged discrimination against Oakland as compared with the rates in effect at South Vallejo.

There was filed with this proceeding by the same complainant Case No. 1471, alleging that the milling-in-transit rules, charges and regulations of the Southern Pacific, Atchison, Topeka and Santa Fe and Northwestern Pacific were discriminatory and, therefore, unlawful.

Believing that a state-wide situation was presented in connection with the milling-in-transit privileges, this Commission instituted on its own motion Case No. 1526, calling into question all of the practices of

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the defendant carriers involving milling-in-transit charges. By stipulation, the testimony and exhibits presented in any one of the three proceedings were to be considered, when relevant, in connection with this proceeding, Case No. 1463.

The complainant filed forty exhibits and, through its witnesses, made an analysis of each of the exhibits, dealing not only with the alleged unreasonable and discriminatory rates on the grain moving into Oakland, but also with the milling-in-transit privileges. This latter subject, however, will be dealt with in the opinion and order to issue in cases Nos. 1471 and 1526.

The testimony showed that in the work-out of the grain rates South Vallejo is given practically the same adjustment as Port Costa on tonnage moving from competitive river and bay points served by the water carriers. Large quantities of grain are brought to South Vallejo via river and bay boats, and it was because of this competition that the Southern Pacific Company found it necessary, many years before complainant's mill was erected at Oakland, to extend to South Vallejo the rates in effect on the opposite side of the bay at Port Costa. This was done, notwithstanding the fact that movement of the tonnage from Port Costa to South Vallejo involved difficult and expensive transportation operations and a haul of 37½ miles, as compared with a haul of but 26.2 miles from Port Costo to Oakland. The rates to Oakland are approximately 2½ cents per 100 pounds higher than to Port Costa, occasioned by the increased mileage, while no additional charge is made in handling the same class of tonnage to South Vallejo for delivery to the competing mill located at that point. This is one of the alleged discriminatory practices of the Southern Pacific Company. The testimony, however, showed that the rate adjustment complained of had extended over a period of from 35 to 40 years and represented a forced schedule of rates by reason of the intense competition between the water and rail carriers in effect when regulation was not enforced. At that time the rail carriers found it absolutely necessary to either make the same rates to South Vallejo as in effect at Port Costa or lose to a great extent the vast wheat tonnage moving out of the Delta regions.

The feature of the rate adjustment mostly complained of in this proceeding is the variation of the treatment of the rates for hauling grain moving through Port Costa to Oakland as compared with grain moving from the same points of origin through Port Costa to South Vallejo. Some of the effects of the adjustments are illustrated by the exhibits and the testimony of the witness.

Complainant's Exhibit No. 30 shows that on grain originating at points in the Sacramento Valley, South Vallejo has the same rates as Port Costa, while the rates to Oakland are 2½ cents per 100 pounds

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greater than the Port Costa-South Vallejo rates, the distance being 23.5 miles in favor of South Vallejo. The testimony of defendant's witnesses was to the effect that this adjustment was created by reason of the water competition via the Sacramento River and its tributaries.

The same exhibit names rates from San Joaquin Valley points and while in this situation Oakland has an advantage in distance of 22.7 miles over South Vallejo, the rates average 1½ cents per 100 pounds higher to Oakland than to South Vallejo. It would seem that if mileage were the controlling factor the rate differentials from Sacramento Valley points, where the distance favors South Vallejo by 23.5 miles, would be practically the same as from San Joaquin Valley points to Oakland, where the distance favors Oakland by 22.7 miles. Defendant's witness testified that the grain rates from San Joaquin Valley points to South Vallejo were also built up of the rates originally forced by water competition, although it was admitted that within recent years there has been no movement of grain by water from the principal points of origin in the San Joaquin Valley. The same exhibit sets forth the rates from points in the Salinas Valley, showing that while the distance to Oakland as compared to South Vallejo is 62.7 miles shorter, the rates average but 1 cent per 100 pounds in favor of Oakland.

Complainant's Exhibit No. 31 names rates from San Joaquin Valley points to Stockton as compared with the rates to Oakland. The average haul to Stockton is 67.2 miles shorter than to Oakland, but the rates to Oakland are 4½ cents per 100 pounds higher. On the other hand, by the comparison given in Exhibit No. 30, the rates from Salinas Valley points to South Vallejo are but 1 cent per 100 pounds higher to South Vallejo than to Oakland, although here the distance favors Oakland by 62.7 miles.

Otherwise stated, Sacramento Valley points to Oakland, rate 2½ cents higher than to South Vallejo, with the mileage 23.5 greater to Oakland.

San Joaquin Valley points to Oakland, rates 1½ cents higher than to South Vallejo, with the mileage 22.7 greater to South Vallejo.

Salinas Valley points to Oakland, rates are 1 cent higher to South Vallejo, with the mileage 62.7 greater to South Vallejo.

San Joaquin Valley points to Oakland, rates 4½ cents higher than to Stockton, with the mileage 67.2 greater to Oakland.

Here we have situations where the mileage differences are practically the same, but with the competing mills at South Vallejo and Stockton having more favorable rate adjustments than are in effect at Oakland.

The reasoning of the defendant is not persuasive, that because of the early day adjustments at South Vallejo and Stockton there can be no discrimination against the mills of the complainant which were later established at Oakland. The record shows that the Port Costa grain

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rates were extended to include South Vallejo because grain originating in the Delta regions was landed at Port Costa or South Vallejo by the boat carriers at the same rates. This made it necessary to give to South Vallejo the Port Costa rates regardless of the extra haul of 37½ miles. When the mill was established at Oakland the same water carriers served the Oakland territory at practically the same rates as they assessed at Port Costa-South Vallejo and it would appear to the Commission that this defendant should have made readjustments and given to Oakland the same advantages, due to its location, as were conceded to South Vallejo and Stockton. In the Stockton situation the adjustments were made in the first place to meet commercial conditions and water competition, and in the second by reason of the rail competition created by the Western Pacific, its main line from Sacramento to Oakland passing through Stockton. The mill at Oakland, in addition to being served by the river and bay water carriers, has rail facilities not possessed by the mill at South Vallejo, inasmuch as Oakland is reached by defendant Southern Pacific Company, by the Atchison, Topeka and Santa Fe, the Western Pacific and the San Francisco and Sacramento Railroad. Stockton has as representative a transportation situation as Oakland, being served by the water carriers, by the Southern Pacific, the Atchison, Topeka and Santa Fe, the Western Pacific, Tidewater Southern Railway and California Traction.

The geographical location of these three milling centers presents a situation which naturally leans more or less toward a grouping of the rates in order to prevent violations of the long and short haul provisions of the constitution, and, while the Commission does not urge a complete grouping of the grain rates at Oakland, South Vallejo and Stockton, it believes this phase should be given very careful consideration in dealing with this adjustment. The carrier can not give one point an advantage over another when conditions are similar and whatever rates are assessed should be uniformly applied. I believe there should not be here a complete recognition of the length of the hauls, but that in the grade-out of these rates the adjustment should be substantially the same for equal distant service. The issues here presented must be determined in the light of the present conditions and not by those of the past years, when circumstances were materially dissimilar.

The exhibits of complainant set forth the two increases made in the rates since June 25, 1918, demonstrating that these readjustments have worked to its disadvantage by widening the differentials formerly existing as between Oakland, South Vallejo and Stockton. It also appears that arbitraries are added to rates for branch line services, with the exception of the services performed on grain between Port Costa

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and South Vallejo, 37.5 miles, and between Suisun and South Vallejo, 20.1 miles.

I must conclude from all of the evidence before me that there is discrimination in the rates now in effect applying to Oakland as compared with these in effect to South Vallejo and Stockton.

An order can not be entered upon this record fixing the reasonable rates, but the Southern Pacific Company will be expected to readjust its rates, in accordance with these findings, within ninety (90) days from the service hereof. If this is not done, the matter may be brought to the Commission's attention again for further appropriate action.

Complainant's claims for reparation are based primarily upon the grounds that the rates to Oakland are discriminatory and in favor of South Vallejo. But complainant competes with mills other than those at South Vallejo and there is nothing in the record to show that the South Vallejo mills control the selling prices. There is no proof of damages, and in this silent condition of the record no basis is afforded for an award of reparation.

ORDER.

Albers Bros. Milling Company, a corporation, having filed with this Commission a complaint alleging that the rates applying to and from Oakland on grain, grain products, flour, cereals and cereal products are unjust, preferential and discriminatory, a regular hearing having been held, and basing its order on the findings of fact appearing in the opinion which precedes this order,

It is hereby ordered, that the Southern Pacific Company publish and file with this Commission on or before ninety (90) days from the date hereof a tariff or tariffs applying on the commodities mentioned, to and from Oakland, which rates shall be just, reasonable and non-discriminatory as compared with rates in effect on the same commodities at South Vallejo and Stockton.

It is hereby further ordered, that as to other matters the complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of June, 1921.

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DECISION NO. 9035.

IN THE MATTER OF THE APPLICATION OF JACKSON GASLIGHT COMPANY, B. E. LETANG, OWNER, FOR PERMISSION TO SUSPEND SERVICE.

Application No. 6185.

Decided June 3, 1921.

B. E. Letang, in propria persona.

W. G. Snyder, for Citizens of Jackson.

BY THE COMMISSION.

OPINION.

This is an application of Jackson Gaslight Company, B. E. Letang, owner, for permission to suspend operations until lower prices prevail for material and labor. Applicant alleges that he is operating his business under a deficit due to the high cost of materials, and, further, that all obligations of the Jackson Gaslight Company have been satisfied.

A public hearing was held before Examiner Satterwhite in Jackson on April 27, 1921, and the matter thereupon submitted.

Applicant has been engaged in manufacturing and selling coal-gas in Jackson since 1885 and has, at the present time, the only coal-gas plant in the State of California. Applicant's manufacturing equipment is antiquated and uneconomical, and his distribution system is in a poor state of repair. It is evident that if gas service is to be continued at a reasonable cost, it will become necessary to make extensive improvements involving additional capital. This, applicant is not able to do.

The city of Jackson, in which applicant's business is located, depends largely upon the neighboring mines for its prosperity. Early in 1920 these mines caught fire and were flooded, necessitating a suspension of their operation, which is still continuing. This has caused a decrease in the business and population of Jackson, which has materially affected applicant's revenue.

The decline of applicant's business is shown in the following statistics taken from annual reports made to the Commission:

	1915	1917	1918	1919	1920
Gas sold—M cubic feet	1,110	1,691	852	1,606	618
Consumers	290	275	275	170	60
Revenue	$1,983	$5,153	$1,505	$3,861	$2,486
Expenses	3,983	7,449	7,547	6,650	6,079
Net	$1,000	*$2,296	*$3,042	*$2,786	*$3,593
Rate per M cubic feet	$2 50	$2 50	$2 50 4 00	$1 00	$1 00

*Deficit.

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It appears from a study of the evidence before the Commission that satisfactory gas service can not be rendered by applicant and that applicant can not reasonably be required to continue service under existing conditions. Applicant should, therefore, be permitted to suspend service.

ORDER.

Jackson Gaslight Company, B. E. Letang, owner, having applied to the Railroad Commission for authority to suspend service, a public hearing having been held and the matter submitted, and the Commission being fully informed in the matter, and finding that applicant's request should be granted;

It is hereby ordered, that Jackson Gaslight Company, B. E. Letang, owner, be and is hereby authorized to suspend gas service in Jackson beginning July 1, 1921; provided, that applicant send written notice to each of his consumers as to his intention of discontinuing service at least fifteen days prior to suspension of service and that a certified copy of such notification be filed with this Commission on or before ten days prior to such intended suspension.

Dated at San Francisco, California, this third day of June, 1921.

DECISION No. 9039.

IN THE MATTER OF THE APPLICATION OF THE McFARLAND TELEPHONE COMPANY FOR AUTHORITY TO INCREASE RATES FOR TELEPHONE SERVICE.

Application No. 6170.

Decided June 3, 1921.

L. F. Galyon and *Ernest Iracin*, for Applicant.

BY THE COMMISSION.

OPINION.

The McFarland Telephone Company, hereinafter referred to as the company, in Application No. 6170, asks the Commission's authority to increase rates for telephone service, alleging that the income from the present rates is insufficient to pay operating expenses.

The company filed with its application a statement of the monthly revenue and expenses and an inventory and appraisal of its property. The revenue and expenses as shown in the exhibit are based on estimates rather than upon records kept by the company.

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The rates which the company has on file with the Commission at present are as follows:

Classification	Business		Residence	
	Wall	Desk	Wall	Desk
Main line	$2 50	$2 75	$2 00	$2 25
Two-party line	2 00	2 25	1 75	2 00
Four-party line	1 75	2 00	1 50	1 75
Suburban*	1 75	2 00	1 50	1 75
Farmer line*	50	50	25	25
Extension bell	25		25	

†Mileage Charges.

Main line telephone, 50 cents per month per quarter mile or fraction thereof.
Two-party line telephone, 35 cents per month per quarter mile or fraction thereof.
Four-party line telephone, 25 cents per month per quarter mile or fraction thereof.

*Farmer line rates are for a minimum of five subscribers per line. Suburban rate is for a minimum of four subscribers for the first three miles of line required from the central office and a minimum of five subscribers per line for the first five miles of line.

†The mileage charges apply only for telephones of these classifications which are located outside of the primary rate area. The mileage shall be the air line distance from the subscriber's station to the primary rate area.

The primary rate area is now defined by a circle drawn with a three-quarter mile radius and with its center, or origin, at the central office.

An investigation of the subscriber's ledger of the company revealed the fact that it had not been charging the rates filed with the Commission, in that subscribers were given the choice between a wall and a desk telephone at the lower rates, this course resulting in loss of revenue. The company was acting within its rights in this matter but, inasmuch as it desires more revenue, it should have applied the rates authorized by this Commission. The ledger also showed that the company was charging discriminatory rates in a few cases, and collecting a rate for switching service which had not been authorized by the Commission. These two matters should be corrected.

A hearing was held in McFarland upon above application by Examiner Westover. An independent inventory and appraisal of the company's property was made by the Commission's engineers and presented at the hearing. From an analysis of these appraisals submitted by the company and by our engineers, we are of the opinion that a fair valuation of this property for rate-making purposes will be approximately $6,500.

The records kept by the company of its revenues and expenses were so incomplete that it was impossible to determine from them either the income or the expenditures during the past year. We have therefore used estimated revenue and expenses in this instance.

A careful estimate of the operating expenses, uncollectible revenue, taxes and depreciation amounts to $2,550 for the coming year. Under

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the present rates, assuming a 5 per cent increase in business, the company would receive a total revenue of approximately $2,450. It is apparent, therefore, that the company is entitled to an increase in revenue in order that it may pay even its operating expenses.

The company may reasonably expect during the coming year an estimated revenue of approximately $2,750 under the proposed rate structure. With the estimated expenses for the same period amounting to $2,550, the company will have remaining only $200 as a return upon its investment. This is a return of 8 per cent on $2,500 while the rate base, as stated above, is $6,500.

The above condition is caused by the fact that the company is serving a territory which is in the development stage. During the last five years the number of stations served by it has increased over 100 per cent. At the present time, however, the number of stations is so small (they have 72 stations) that a rate structure which would give a reasonable return upon the investment would be excessive and defeat the very purpose for which it was granted.

Included in the estimated expenses for the coming year is an item of $288 which shall be set aside in a fund for the purpose of taking care of depreciation which will take place subsequent to the time this fund is set aside. This amount shall be added to the fund annually and the fund itself regulated as directed in the order.

We recommend that the company shall offer the following classes of service and authorize the following rates:

Classification	Per month	
	Business	Residence
Main line, wall	$2 50	$2 00
Two-party line, wall	2 00	1 75
Four-party line, wall	1 75	1 50
Suburban line, wall	2 25	2 00
Extensions	1 00	1 00
Extension bells	25	25
Farmers' lines (per annum)	6 00	3 00

Desk telephones are 25 cents additional per month on all classes of service except extensions and farmers' lines.

The above main-line, two- and four-party line rates apply only within the primary rate area which shall be defined as the territory within one-half mile, air-line, from the central office of the company.

MILEAGE CHARGES.

A mileage charge, based upon the shortest air-line distance from the subscribers' station to the primary rate area, may be made for the following classes of service:

	Per month
Main line, per quarter mile or fraction thereof	$0 50
Two-party line, per quarter mile or fraction thereof	35
Four-party line, per quarter mile or fraction thereof	25

Rates for miscellaneous service not included in the above table are to be filed with the Commission subject to its approval.

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All services, rules and regulations not covered in this opinion shall remain in effect as provided for in the Commission's Decision No. 2879, Case No. 683, decided November 5, 1915, and as modified by Decision No. 8146, Application No. 5767, decided September 24, 1920.

We recommend the following form of order:

ORDER.

The McFarland Telephone Company, having filed with the Commission its application for an increase of rates, a hearing having been held, the matter having been submitted and the Commission, basing its conclusions on the foregoing opinion, finding as a fact that the rates authorized and the classes of service prescribed in this order are just and reasonable;

It is hereby ordered, that the applicant is authorized to establish and file with the Commission within thirty (30) days from the date of this order, a schedule of rates and services as outlined in the foregoing opinion. On approval by the Commission of the schedule so filed, applicant is authorized to put these rates into effect subject to the following conditions:

(*a*) Adequate and efficient telephone service must be rendered at all times for all classes of service.

(*b*) Applicant shall set aside in a depreciation fund the sum of $288 per annum in installments of $24 per month for the purpose of taking care of such renewals and replacements of property as shall be covered by the fund.

Applicant shall file with the Commission within thirty (30) days of the date of this order, its suggestions for rules governing the functions and use of the depreciation fund and these recommendations thereafter shall go into effect as approved or modified by the Commission.

(*c*) The books and records of the company shall be kept in conformity with the Uniform Classification of Accounts for Telephone Companies as prescribed by this Commission and made effective January 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of June, 1921.

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DECISION NO. 9046.

IN THE MATTER OF THE APPLICATION OF NORTHWESTERN PACIFIC RAILROAD COMPANY, AND THE ALBION LUMBER COMPANY, FOR PERMISSION TO LEASE A PORTION OF THE RAILROAD OF THE NORTHWESTERN PACIFIC RAILROAD COMPANY TO THE ALBION LUMBER COMPANY.

Application No. 6554.
Decided June 3, 1921.

BY THE COMMISSION.

ORDER.

Northwestern Pacific Railroad Company and The Albion Lumber Company have petitioned the Railroad Commission for an order approving the lease of a portion of the line of applicant, Northwestern Pacific Railroad Company, located in Mendocino County, and known as the Albion branch, to applicant, The Albion Lumber Company, a corporation.

The application states that the Northwestern Pacific Railroad Company desires to lease the so-called Albion branch for the reason that said line is entirely disconnected from the rest of the railroad of the Northwestern Pacific Railroad Company and it is difficult to maintain a separate organization for the operation of said branch line. The Albion Lumber Company desires to lease the railroad for the alleged reason that in future 98 per cent of the traffic to be handled will be that originating with The Albion Lumber Company and such company can more economically operate this branch line of railroad in that practically the entire traffic is that of The Albion Lumber Company, and the operation of the railroad will be conducted by officials of The Albion Lumber Company.

A copy of the proposed lease, approval of which has been requested, is attached to and forms a part of the application in this proceeding. We are of the opinion that this is not a matter in which a public hearing is necessary, and that the application should be granted;

It is hereby ordered, that this application be and the same hereby is granted, subject to the following conditions:

1. Applicant, Northwestern Pacific Railroad Company, will be required to immediately cancel all tariffs and schedules now on file with this Commission.

2. Applicant, Albion Lumber Company, will be required to immediately file new tariffs and schedules or to adopt as its own tariffs and schedules as hertofore filed with this Commission by the Northwestern Pacific Railroad Company; tariffs and schedules as filed by

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applicant, Albion Lumber Company, to be strictly in accordance with tariffs and schedules as heretofore filed by applicant, Northwestern Pacific Railroad.

3. Applicant, Albion Lumber Company, will be required to keep records and accounts in accordance with the classification authorized by this Commission and the Interstate Commerce Commission, such records and accounts to be kept separate from those included in the general business transacted by applicant, Albion Lumber Company.

4. The approval by the Commission of the lease herein proposed does not include an approval of the estimated original cost of $459,224 or of the estimated present value of $600,000 of the property proposed to be leased for any rate fixing or any other purpose, such values as expressed in the application and referred to in the lease being considered only as approximate values upon which the rental specified in the lease is based.

The Commission reserves the right to make such other and further orders in this proceeding as in its judgment the public convenience and necessity may require.

Dated at San Francisco, California, this third day of June, 1921.

DECISION NO. 9048.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA, FOR AUTHORITY TO ISSUE ADDITIONAL BONDS IN THE AMOUNT OF NINE HUNDRED TWENTY-NINE THOUSAND THREE HUNDRED EIGHTY-NINE DOLLARS AND TWENTY-SIX CENTS, AND TO SELL OR PLEDGE THE SAME.

Application No. 6306.
Decided June 3, 1921.

LeRoy M. Edwards, for Applicant.

ERI NDIGE, *Commissioner*.

THIRD SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 8398, dated November 30, 1920, as amended, authorized Southern Counties Gas Company of California to issue $929,389.26 of its first mortgage 5½ per cent bonds due May 1, 1936, subject, among others, to the condition that $501,713.60 of bonds be not deposited as collateral, sold, or otherwise disposed of, except as authorized by the Railroad Commission; and

Whereas, the Railroad Commission in its first supplemental order, Decision No. 8616, dated February 11, 1921, and in its second supplemental order, Decision No. 8805, dated March 30, 1921, in the above entitled matter, authorized applicant to deposit $252,300 of said

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$501,713.60 of bonds to secure, in part, the payment of $200,000 of collateral trust 8 per cent gold bonds due December 1, 1930; and

Whereas, applicant in its third supplemental application in the above entitled matter, reports that up to April 30, 1921, it has expended $258,402.22 for permanent extensions, betterments and improvements to its existing plant and properties which have not been paid for by the issue of bonds; and

Whereas, applicant, because of such expenditures, which have been examined and found reasonable by the engineering department of the Railroad Commission, asks permission to deposit $196,900 additional of said $501,713.60 to secure the payment of $150,000 of series "D" collateral trust bonds; a public hearing having been held; and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such deposit is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income; now, therefore;

It is hereby ordered, that the order in Decision No. 8398, dated November 30, 1920, as amended, be and it is hereby modified so as to permit Southern Counties Gas Company of California to use $196,900 of the $501,713.60 of first mortgage bonds referred to in condition "2" of said Decision No. 8398, to secure the payment of $150,000 of series "D" collateral trust 8 per cent gold bonds due December 1, 1930; provided—.

1. That all moneys obtained through the deposit of the $196,900 of first mortgage bonds be used to reimburse applicant's treasury, and after such reimbursement to pay current indebtedness reported in its third supplemental petition in this proceeding;

2. That the said $196,900 of bonds be deposited at the ratio of $131.25 face value of first mortgage bonds for every $100 face value of collateral trust bonds issued; and that as the collateral trust bonds secured by first mortgage bonds are paid, a proper proportion of the first mortgage bonds deposited as collateral shall be returned to applicant and thereafter not disposed of by applicant in any manner whatsoever, except as authorized by the Railroad Commission.

It is hereby further ordered, that the order in Decision No. 8398, dated November 30, 1920, as amended, shall remain in full force and effect, except as modified by this third supplemental order.

The foregoing order is hereby approved and ordered filed as the third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of June, 1921.

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DECISION NO. 9049.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA, FOR ORDER AUTHORIZING THE ISSUANCE OF TEN-YEAR COLLATERAL TRUST GOLD BONDS, AND THE EXECUTION OF A TRUST DEED AND MORTGAGE SECURING THE SAME AND THE PLEDGING OF FIRST MORTGAGE BONDS AS PART OF THE SECURITY THEREFOR.

Application No. 6307.

Decided June 3, 1921.

LeRoy M. Edwards, for Applicant.

BRUNDIGE, *Commissioner*.

THIRD SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 8399, dated November 30, 1920, as amended, authorized Southern Counties Gas Company of California to execute a trust deed securing the payment of an authorized issue of $1,000,000 of ten-year collateral trust 8 per cent gold bonds due December 1, 1930, and to issue and sell at 95 per cent of face value, plus accrued interest, $400,000 of such bonds; and

Whereas, the Railroad Commission by its first and second supplemental orders in this proceeding, Decisions No. 8617, dated February 11, 1921, and No. 8806, dated March 30, 1921, respectively, authorized applicant to issue and sell at 95 per cent of face value, plus accrued interest, an additional $200,000 collateral trust bonds secured by the deposit of first mortgage bonds and to use the proceeds to reimburse the treasury on account of capital expenditures made prior to February 28, 1921; and

Whereas, applicant in its third supplemental application, filed in the above entitled matter, asks permission to issue and sell at 95 per cent of face value, plus accrued interest, an additional amount of $150,000 of series "D" collateral trust bonds and to secure their payment by the deposit of $196,900 of first mortgage bonds; and

Whereas, applicant reports that up to April 30, 1921, it has expended $258,402.22 for permanent extensions, betterments and improvements to its existing plant and properties which have not been paid for by the issue of bonds; and

Whereas, the engineering department of the Railroad Commission has examined and found reasonable such expenditures; a public hearing having been held; and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income; now, therefore;

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It is hereby ordered, that Southern Counties Gas Company of California be and it is hereby authorized to issue and sell, for cash, on or before December 31, 1921, at not less than 95 per cent of face value, plus accrued interest, $150,000 of series "D" ten-year collateral trust 8 per cent gold bonds, and to use the proceeds to reimburse its treasury, and after such reimbursement, to pay current liabilities reported in the third supplemental application in Application No. 6306.

The authority herein granted is subject to further conditions as follows:

1. The payment of the $150,000 of series "D" ten-year collateral trust bonds herein authorized may be secured by the deposit of $196,900 of applicant's 5½ per cent first mortgage bonds. As the ten-year collateral trust bonds are redeemed, a proper proportion of applicant's first mortgage bonds deposited as collateral shall be returned to applicant and thereafter not disposed of in any manner whatsoever, except as authorized by the Railroad Commission.

2. The authority herein granted to issue bonds will not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

3. Southern Counties Gas Company of California shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing order is hereby approved and ordered filed as the third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of June, 1921.

DECISION No. 9054.

IN THE MATTER OF THE APPLICATION OF CENTRAL COUNTIES GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ONE HUNDRED FIFTY THOUSAND DOLLARS OF SEVEN PER CENT DEBENTURE NOTES.

Application No. 6827.

Decided June 4, 1921.

F. W. Hunter and *John E. Jardine*, for Applicant.

BRUNDIGE, *Commissioner.*

OPINION.

Central Counties Gas Company asks permission to issue and sell at not less than 92 per cent of their face value and accrued interest,

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$150,000 of debenture notes and use the proceeds to pay for the acquisition and construction of properties and the payment of notes issued to acquire and construct properties.

The debenture notes are to be issued under a trust agreement and their payment secured by the deposit of first mortgage bonds. The company has not yet filed a copy of the trust agreement, nor did it in this application ask permission to issue the first mortgage bonds which are to be deposited with the trustee under the trust agreement. The order herein will provide that none of the debenture notes can be delivered until the Commission has authorized the company to execute a trust agreement.

The issue and deposit of first mortgage bonds will be considered by the Commission after applicant has filed with the Commission an application for permission to issue and deposit such bonds.

The debenture notes which applicant asks permission to issue and sell are to be dated July 1, 1921, and mature serially; $30,000 are to mature July 1, 1924; $30,000 on July 1, 1925; $30,000 on July 1, 1926, and $60,000 on July 1, 1927.

As of March 31, 1921, applicant reports $103,505 of common stock and $300,000 of its first mortgage bonds outstanding. The company's notes payable are reported at $31,450 and its accounts payable at $32,601.23.

F. W. Hunter, applicant's vice president, testified that neither applicant's production nor transmission and distribution systems are sufficient to enable it to give adequate and satisfactory service. Applicant intends to use the proceeds from the sale of the debentures for the following purposes:

Construction and completion of a 200,000 cubic feet gas holder, Visalia plant	$39,000 00
Construction and completion of a new oil gas generator, Visalia plant	25,300 00
Purchase and installation of approximately 10,850 lineal feet of 5-inch transmission line	10,450 00
Purchase and installation of approximately 5,000 lineal feet of 6-inch distribution main	6,875 00
Purchase of site, and purchase and installation of storage tanks in the city of Tulare	10,510 00
Purchase and installation of approximately 500 new services including meters, regulators, etc.	19,250 00
Refunding sixty-day 7 per cent note for ten thousand dollars ($10,000) in favor of Los Angeles Trust and Savings Bank	10,000 00
Refunding one-day 7 per cent note for nine thousand six hundred dollars ($9,600) in favor of Wm. R. Staats Company	9,600 00

F. W. Hunter testified that in his opinion the expenditure of the proceeds from the sale of debenture notes should increase applicant's net earnings from $25,000 to $29,000 per annum. The Commission in a former decision (Decision No. 7753) called attention to certain

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improvements which should be made by applicant in order to enable it to give more adequate service and bring about a more economical operation of applicant's plants. The record in this proceeding shows that all of the improvements suggested by the Commission are included in applicant's proposed construction program and will be financed through the sale of the debenture notes.

I herewith submit the following form of order:

ORDER.

Central Counties Gas Company having applied to the Railroad Commission for permission to issue $150,000 face value of 7 per cent serial debenture notes, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in this order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Central Counties Gas Company be and it is hereby authorized to issue and sell, for cash, at not less than 92 per cent of their face value and accrued interest, $150,000 of its 7 per cent debenture notes, provided that none of the notes be delivered until the Commission by supplemental order has authorized applicant to execute a trust agreement under which the notes may and will be certified and issued.

The authority herein granted is subject to further conditions as follows:

1. Upon receiving an order from this Commission authorizing it to execute a trust agreement and after the execution of such an agreement, applicant may use the proceeds obtained from the sale of the debenture notes for the following purposes:

Construction and completion of a 200,000 cubic feet gas holder, Visalia plant	$39,000 00
Construction and completion of a new oil gas generator, Visalia plant	25,000 00
Purchase and installation of approximately 10,000 lineal feet of 5-inch transmission line	10,450 00
Purchase and installation of approximately 5,000 lineal feet of 6-inch distribution main	6,875 00
Purchase of site, and purchase and installation of storage tanks in city of Tulare	10,510 00
Purchase and installation of approximately 500 new services including meters, regulators, etc.	19,250 00
Refunding sixty-day 7 per cent note for ten thousand dollars ($10,000) in favor of Los Angeles Trust and Savings Bank	10,000 00
Refunding one-day 7 per cent note for nine thousand six hundred dollars ($9,600) in favor of Wm. R. Staats Company	9,600 00

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2. Any proceeds not expended for the foregoing purposes may be expended only for such purposes as the Commission may hereafter authorize.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

4. Central Counties Gas Company shall keep such record of the issue and sale of the debenture notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will apply only to such debenture notes as may be issued, sold and delivered on or before November 15, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of June, 1921.

Decision No. 9065.

A. B. WATSON, TRANSACTING BUSINESS UNDER THE NAME AND STYLE OF CROWN STAGE.

vs.

WHITE BUS LINE, A CORPORATION, O. R. FULLER, TRANSACTING BUSINESS UNDER THE NAME AND STYLE OF WHITE STAGE LINE, AND O. R. FULLER.

Case No. 1442.

Decided June 7, 1921.

Ordered that defendants desist operating as a transportation company between the termini of Santa Ana and Anaheim and intermediate points.

Held—That the Commission has jurisdiction to entertain the complaint, under article XII, section 22, of the Constitution. Western Association, etc., R. R. *vs.* Railroad Commission, 173 Cal. 802.

Held—The only basis for any distinction between transportation companies operating prior to May 1, 1917, and those which commenced subsequent to that time is the manner of creation of their operative rights. The act, in effect, declared that such operations as were actually being carried on in good faith on May 1, 1917, would be recognized as a lawful right to be exercised by the person or corporation then in the enjoyment of them. Every subsequent deviation or change in such operations must be under the approval and authorization of the Railroad Commission.

Held—Fundamentally and in the absence of statutory restriction, the right to operate as a public utility is measured by the extent of the undertaking. Under regulation the right to operate is coextensive with the duty to render service in the field undertaken.

Douglas Brookman, Clyde Bishop and *L. A. Lewis*, for Complainant.

H. W. Kidd, Harry A. Encell and *A. J. Verheyen*, for Defendants.

By the Commission.

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OPINION.

This is a complaint by an auto stage company against alleged unauthorized operations of a rival concern between the cities of Los Angeles and Santa Ana.

Public hearings were held in the city of Los Angeles on July 12 and 19, 1920, before Examiner Gordon. Thereafter briefs were filed, the matter was submitted, and is now ready for decision.

Complainant, operating under the name of Crown Stage, runs a stage line between Santa Ana and Los Angeles. His operative rights, as to that portion of the line between Santa Ana and Anaheim, are by virtue of operations commenced by him prior to May 1, 1917, and as to the portion of the route between Anaheim and Los Angeles is, by purchase, under the authorization of the Commission's Decision No. 7143, of the operative rights of the Valley Stage Line as the same had been conducted by one F. B. Ogden since a time prior to May 1, 1917. The defendant is the successor in interest in the operative rights of the A. R. G. Bus Company, which began operations prior to May 1, 1917, between Los Angeles and San Diego over a route passing through Anaheim and Santa Ana.

It is contended by complainant that the defendant holds an operative right for the through service between Los Angeles and San Diego, and also an operative right for a local service between Los Angeles and Anaheim; that no operative right has ever been acquired by the defendant, either by virtue of operations prior to May 1, 1917, or by certificate granted subsequently by this Commission to operate a local service between Los Angeles and points along its route south and east of Anaheim to and including the city of Santa Ana.

Three issues are presented:

First—As to whether or not the Commission has jurisdiction to entertain the complaint, seeking as it does to inquire into, define and regulate an operative right as such right existed prior to May 1, 1917, and was, therefore, recognized under the provisions of chapter 213, Statutes of 1917.

Second—Whether the defendant has an operative right for any local service which it may at any time initiate along the line and route covered by its operative right for a through service between Los Angeles and San Diego. In other words, does the operative right for a through service by virtue of operations commenced prior to May 1, 1917, carry with it the right of local operations along such through route?

Third—Did the defendant, or the defendant's predecessor in interest in fact operate in good faith between the fixed termini of Anaheim and Santa Ana, or between Los Angeles and Santa Ana on and prior to May 1, 1917, in such a manner as to establish an operative right under the provisions of chapter 213, Statutes of 1917?

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The Commission has jurisdiction to entertain the complaint. Prior to the enactment of chapter 213, Statutes of 1917, many auto stage lines were operating over highways of the state as transportation companies for the service of the public. That such transportation companies were subject to regulation under the provisions of the constitution, article XII, section 22, was recognized by the Supreme Court in the case of *Western Association etc. R. R.* vs. *Railroad Commission*, 173 Cal. 802.

The legislature, in enacting chapter 213 of the Statutes of 1917, provided definite machinery for the regulation of this form of utility—defined by that act as a "transportation company." The language of section 4 of this statute indicates no distinction between transportation companies operating prior to May 1, 1917, and those subsequently authorized by a certificate of public convenience and necessity in so far as regulation of operations is concerned. The only basis for any distinction between transportation companies operating prior to May 1, 1917, and those which commenced subsequent to that time is in the manner of creation of their operative rights. The act, in effect, declared that such operations as were actually being carried on in good faith on May 1, 1917, would be recognized as a lawful right to be exercised by the person or corporation then in the enjoyment of them. Every subsequent deviation from or change in such operations must be under the approval and authorization of the regulatory body, the Railroad Commission.

Protection of existing rights against the encroachments of unauthorized operations is a proper exercise of the regulatory power. *Public Utilities Commission* vs. *Garriloch*, 181 Pac. 272; P. U. R. 1919E, p. 182; *Oro Electric Co.* vs. *Railroad Commission*, 169 Cal. 466.

The complaint herein invokes the regulatory power of the Commission to prevent alleged illegal encroachments by one transportation company on the operative rights of another. This is a matter within the Commission's jurisdiction.

Strictly speaking, a transportation company operating a through service in good faith on and prior to May 1, 1917, has no right by reason of such operation to later initiate a local service between intermediate points on the route traversed in the through service without first obtaining a certificate of public convenience and necessity therefor from the Railroad Commission. The company would have the right to put on the local service to the same extent only as was its duty to render it, and this, in turn, would be only to the extent that the company had, on and prior to May 1, 1917, held itself out to render such local service for the public. Fundamentally and in the absence of statutory restriction, the right to operate as a public utility is measured by the extent of the undertaking. Under regulation, the right to so operate is coextensive with the duty to render service in the field undertaken. Prior to the

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enactment of the Statute of 1917 there was no state regulation of the operation of auto stages or, as later designated, "transportation companies." A stage company was free to undertake any kind of service without legal restriction as to the route or termini. By the statute of 1917 a definite limitation was placed on all future proposed operations. Thereafter, one proposing to undertake a new service was required to obtain a certificate of public convenience and necessity from the Railroad Commission.

As to prior operations, the statute provided:

> But no such certificate shall be required of any transportation company as to the fixed termini between which or the route over which it is actually operating in good faith on May 1, 1917. (Statutes 1917, chapter 213, section 5.)

The statute thus recognized the right of transportation companies to continue the service in effect on May 1, 1917. If, on that date, such company was actually operating stages between two points or over a regular route and in good faith was holding itself out to serve the public, its operative rights would include all features of local service which it had undertaken to render. The Commission can not recognize as an operative right anything in excess of the original undertaking. If, upon the assumption that such right existed, an effort were made to compel a transportation company to render a local service which it had not held itself forth as ready to perform, such effort would fall within the constitutional inhibitions against the taking of property without just compensation. *Atchison, Topeka and Santa Fe Railway Co.* vs. *Railroad Commission*, 173 Cal. 577.

There are certain distinctive features of auto stage transportation which must be recognized in applying regulation to this kind of utility. In the very nature of things the type of equipment used, the character of highways traversed, and the class of public sought to be served present facts which might well limit the nature and extent of the undertaking. An auto stage company, in the present state of development of that industry, might consistently limit its undertaking to through service only between two points, such as Los Angeles and San Diego. It might well be that such service could be carried on successfully only by eliminating all or part of the local traffic along the through route. In this particular, the auto stage at the present time is not comparable with an electric or steam railroad. It would not be justifiable to impute to an auto stage company the undertaking to serve, and, hence, the duty to serve all local points along a through route merely by reason of the operation of the through service. In this regard, the language of the statute for the regulation of transportation companies safeguards the operative rights of such companies in that these rights are described as "between fixed termini or over a regular route." It is thus possible for transportation companies to define exactly the extent of their undertaking. We believe it is in the interest of the sound regulation

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and development of the auto stage industry that they should do so. Application can readily be made to the Commission for authorization to operate between fixed termini or over a regular route in such way as to include the right to render local service along such route. In many orders of this Commission certificates have been granted for operation between two named points and "intermediate points." Where no such qualifying language appears in the tariffs and schedules on file May 1, 1917, and there is no other evidence of an original undertaking to render local service, application should be made to the Commission for the issuance of a new certificate or modification of any existing certificate so as to permit the local service which public convenience and necessity demand. The best evidence of what a transportation company, operating in good faith on May 1, 1917, had undertaken to furnish by way of service to the public, is the showing of the actual operations of its stages, together with its published tariffs and time schedules, indicating the points proposed to be served.

The evidence in this case fails to show that the A. R. G. Bus Company, predecessor in interest of the defendant transportation company, actually operated a local service between Santa Ana and Anaheim prior to May 1, 1917. Neither do the published tariffs and time schedules of that company in effect on May 1, 1917, indicate that Santa Ana was a local stop to be served on the through line between Los Angeles and San Diego. On the contrary, there was affirmative evidence to show that the defendant's predecessor in interest did not originally on and prior to May 1, 1917, undertake to render local service between Anaheim and Santa Ana. On May 4, 1918, Mr. E. S. Goode, principal owner and general manager of the A. R. G. Bus Company, executed a written agreement in the name of that company not to "apply to the Railroad Commission for permission to handle any local traffic between Anaheim and Santa Ana or intermediate points." This agreement indicates that after a full year of operating the A. R. G. Bus Company was not holding itself out to the public to render local service between Anaheim and Santa Ana and intermediate points.

The evidence in this case does not show that on May 1, 1917, the defendant transportation company, or its predecessor in interest, was, in good faith, operating or holding itself out to operate a local service between Santa Ana and Anaheim. No certificate of public convenience and necessity has subsequently been issued by this Commission under which defendant might claim an operative right for such local service. We, therefore, conclude that the operations of the defendant transportation company between Santa Ana and Anaheim and intermediate points complained of in this proceeding are unauthorized and in violation of the provisions of chapter 213, Statutes of 1917, as amended.

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ORDER.

Complaint having been made concerning the alleged unlawful operations between the cities of Santa Ana and Anaheim and intermediate points by the defendants, White Bus Line, a corporation, O. R. Fuller, transacting business under the name and style of White Stage Line, and O. R. Fuller, and said defendants and their successor in interest, Motor Transit Company, a corporation, having appeared in answer thereto, and public hearings having been held and the matter submitted, and the Commission having made its findings of fact as indicated by the foregoing opinion, and determined that the operations by said defendants, and each of them, as a transportation company, between the termini of Santa Ana and Anaheim are unauthorized and in violation of law;

It is hereby ordered, that the said defendants, and each of them, forthwith desist operating as a transportation company for the transportation of persons or property for compensation between the termini of Santa Ana and Anaheim and intermediate points.

Dated at San Francisco, California, this seventh day of June, 1921.

DECISION No. 9066.

IN THE MATTER OF THE APPLICATION OF PORT COSTA WATER COMPANY FOR AUTHORITY TO ISSUE INTERIM CERTIFICATES TO THE AMOUNT OF ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS; PROVIDING FOR EXCHANGE OF FIRST AND REFUNDING EIGHT PER CENT GOLD BONDS TO A LIKE FACE AMOUNT.

Application No. 6862.

Decided June 8, 1921.

Jared How, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

Port Costa Water Company asks permission to execute a first and refunding mortgage to secure the payment of an authorized issue of $1,000,000 of bonds; to issue and sell at not less than 94½ per cent and accrued interest $125,000 of said bonds, and use the proceeds to pay bills and accounts payable incurred in connection with the construction of additions and betterments to its property. Pending the delivery of the bonds, applicant asks permission to issue and sell interim certificates exchangeable for bonds.

Applicant has not filed a copy of its proposed first and refunding mortgage. The authority herein granted to issue and sell bonds will not become effective until the Commission has authorized applicant to execute a mortgage securing the payment of the bonds.

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On July 27, 1917, the Commission authorized Port Costa Water Company to join with Port Costa Development Company and Mount Diablo Development Company in the issue of a $385,000 note secured by mortgage on the properties of the three companies. On December 31, 1919, the Commission authorized applicant to join with the two companies mentioned in the issue of a $100,000 note secured by a mortgage on the properties of the three companies. The two notes are the joint and several obligations of the three companies. The testimony shows that there is now due on the two notes approximately $433,000. Applicant reports that arrangements have been made whereby it will assume the payment of $300,000 of the $433,000, and that by such assumption it will be relieved of any further liability on the two notes. The notes are held by the San Francisco Savings and Loan Society, which, according to the testimony, has expressed a willingness to an extension of the maturity of the notes. The matter of extending the maturity of the notes and any modifications of the mortgages securing the payment of the notes, should be hereafter taken up with the Commission.

The other indebtedness of applicant is reported as follows:

Notes payable	$35,000 00
Due Geo. W. McNear, Incorporated	82,897 97
Due G. W. McNear	14,500 00

It is for the purpose of refunding part of this indebtedness that applicant asks permission to issue and sell $125,000 of 8 per cent serial bonds. Of the bonds, $15,000 mature on May 1, 1922; $20,000 on May 1, 1923; $25,000 on May 1, 1924; $30,000 on May 1, 1925, and $35,000 on May 1, 1926.

The Railroad Commission, by Decision No. 8238, dated October 15, 1920, readjusted applicant's rates, and in so doing used a rate base of $650,000. The rates fixed by the Commission in Decision No. 8238 are intended to yield an 8 per cent return on the rate base of $650,000. The testimony shows that applicant's earnings will be sufficient to enable it to pay the interest on the bonds which it asks permission to issue.

I herewith submit the following form of order:

ORDER.

Port Costa Water Company having asked permission to execute a mortgage and issue and sell $125,000 of bonds, and pending the delivery of the bonds, issue and sell interim certificates of a like amount; a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in this order, and that the expenditures for such purpose or pur-

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poses are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Port Costa Water Company be and it is hereby authorized to issue and sell, for cash, at not less than 94½ per cent and accrued interest $125,000 of first and refunding mortgage 8 per cent gold bonds; pending the issue and delivery of such bonds, Port Costa Water Company is hereby authorized to issue, sell and deliver at not less than 94½ per cent and accrued interest $125,000 of interim certificates exchangeable for first and refunding mortgage 8 per cent gold bonds.

The authority herein granted is subject to the following conditions:

1. None of the bonds herein authorized to be issued shall be delivered until the Commission by supplemental order has authorized applicant to execute a first and refunding mortgage securing the payment of the bonds.

2. All proceeds realized from the sale of the bonds or interim certificates, shall be deposited with the Bank of California, National Association, trustee, and not expended until the Commission has authorized applicant to execute a first and refunding mortgage.

3. Upon receiving authority from the Commission to execute a first and refunding mortgage, the proceeds from the sale of the bonds may be used to pay or refund, in so far as possible, the notes and accounts payable, set forth in Exhibit "A" filed in this proceeding.

4. Port Costa Water Company shall keep such record of the issue and sale of the bonds and interim certificates herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

6. The authority herein granted will apply only to such bonds and interim certificates as may be issued, sold or delivered on or before October 1, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of June, 1921.

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DECISION NO. 9073.

BENJAMIN TONINI

vs.

D. S. ROZA.

Case No. 1542.

Decided June 9, 1921.

S. V. Wright, for Complainant.
M. A. Fitzgerald, for Defendant.

BY THE COMMISSION.

OPINION.

The complaint alleges that defendant, during two months, December 26, 1920, to February 26, 1921, was irregular in operating his stage line between San Luis Obispo and Cambria, and that on certain dates in February, 1921, he did not run at all. The answer denies these allegations.

A public hearing of the case was held by Examiner Westover at San Luis Obispo.

It appears from the complaint and the testimony at the hearing that at times during the rainy season it was almost impossible to operate because of weather and road conditions. However, defendant seems to have made every scheduled trip except one, either with his regular stage or with hired vehicles. On several occasions his stage was in the garage for repairs and he employed others who made the trips for him. On the one occasion when the scheduled trip was not made, the weather and roads were very bad, and he explained to a man and wife, who were prospective passengers, that it was doubtful if they could get through, but that he would take them through if possible, but they decided to wait and he took them the following day. On some occasions, when roads were very bad and he was very late on his westbound trip, he telephoned from Cayucos and hired a car to bring passengers from Cambria and take passengers from Cayucos. This was in an effort to maintain regular schedule between Cayucos and San Luis Obispo, better than could be done by operating the regular stage through.

ORDER.

A public hearing having been held in the above entitled case, the matter being submitted and ready for decision;

It is hereby ordered, that the complaint be and it is hereby dismissed.

Dated at San Francisco, California, this ninth day of June, 1921.

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DECISION NO. 9074.

IN THE MATTER OF THE APPLICATION OF HOXIE AND TILLMAN OF SUISUN, SOLANO COUNTY, TO INCREASE WAREHOUSE RATES.

Application No. 6559.
Decided June 9, 1921.

R. W. Dobbins, for Applicant.
BY THE COMMISSION.

OPINION.

Applicant herein is a copartnership operating three public warehouses in the town of Suisun. Two of the warehouses are used for storing hay, and have a combined capacity of 1000 tons; the third is a grain warehouse with an approximate capacity of 1200 tons. All are located on Suisun Slough and have tidewater connections through which almost the entire tonnage stored reaches outside markets. There is no direct rail connection with applicant's warehouses. The grain warehouse is of stone construction, and the hay warehouses are of wood each having corrugated iron roof and wood floor. Applicant estimates the value of the entire property at $15,000, for which it pays an average annual rental of $700.

The present rates and rates which applicant desires to establish are as follows:

	Present rate	Proposed rate
Hay per ton, per season	$1 00	$1 50
Grain per ton, per season	1 00	1 50
Wool per bag, per season	25	15 per month

The above rates on hay and grain cover all customary warehouse service and in addition, the labor of loading to craft when these commodities are delivered for shipment. The existing season rate on wool is equal to $2\frac{1}{2}$ cents per bag per month, an obviously inadequate charge, but a nominal tonnage only is handled, the entire cash receipts for 1920 being $19.88.

A hearing on the application was held at Suisun by Examiner Satterwhite, the testimony showing that in June, 1920, applicant took over the warehouse business of Hilborn Brothers, whose rate schedules were adopted at that time. Hilborn Brothers operated the warehouses as an incident to their farming interests and, according to applicant, did not attempt to make the utility self supporting, as is evidenced by the low rates maintained. During the year applicant has been in control, $5 per day has been paid for warehouse labor, but the future labor situation at Suisun is uncertain. In further support of its request, applicant submitted the following operating statement for the year ending May 31, 1921:

Receipts		$1,392 88
Expenses—		
Labor	$1,725 00	
License	30 00	
Rent	700 00	2,455 50
Deficit		$1,062 62

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Under the proposed increases against which no protest was made, the additional annual revenue accruing, on the basis of tonnage handled last year, would be approximately $685, an amount still inadequate unless operating expenses can be considerably reduced.

In view of the foregoing statements, and with special reference both to the low rates in effect and the deficit resulting from the operation of this property for the past year, it is our conclusion that the increased rates requested have been justified and should be authorized.

ORDER.

Hoxie and Tillman, a copartnership, having applied to this Commission for authority to increase warehouse rates, a hearing having been held thereon and the matter having been submitted,

It is hereby found as a fact that the increased rates requested in the application are just and reasonable, and that the existing rates are unjust and noncompensatory.

Basing this order upon the foregoing statement of fact and other facts covered by the testimony and exhibits in this proceeding;

It is hereby ordered, by the Railroad Commission of the State of California, that Hoxie and Tillman, a copartnership, be and the same is hereby authorized to publish and file within twenty (20) days and thereafter collect the following rates for the service indicated:

For storing and handling grain, per season	$1 50 per ton
For storing and handling hay, per season	1 50 per ton
For storing and handling wool in bags, per month	15 per bag

Dated at San Francisco, California, this ninth day of June, 1921.

DECISION NO. 9076.

IN THE MATTER OF THE INSTALLATION OF SAFETY SIGNALS AT GRADE CROSSINGS WITHIN THE CITY LIMITS OF LINDSAY, TULARE COUNTY.

Case No. 1472.

Decided June 9, 1921.

C. W. Brasuell, for City of Lindsay.

A. J. Hoire, for Lindsay Chamber of Commerce.

Frank B. Austin, for Southern Pacific Company.

BY THE COMMISSION.

OPINION ON REHEARING.

This proceeding was originally initiated by the Commission on its own motion, as a result of several informal complaints registered by the board of trustees of Lindsay and several citizens in regard to the dangerous conditions at the grade crossings of the several streets in Lindsay over the tracks of the Southern Pacific Company.

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By its Decision No. 8598 therein, dated January 26, 1921, the Commission ordered that the Southern Pacific Company install automatic flagmen at its crossings of Eucalyptus avenue, Hermosa street, Honolulu street and Lewis street, all of which were to be paid for by the Southern Pacific Company, except the one at Lewis street, which, having been opened at the request of the city under Decision No. 2320, was to be paid for by the city of Lindsay. It was also ordered that Hermosa street be further protected by a human flagman from November 15 to January 15, and from March 15 to July 15 of each year, at the expense of the Southern Pacific Company.

Subsequently, the Southern Pacific Company filed its petition for rehearing upon the ground that no necessity was shown for the installation of a wig-wag signal at Honolulu street; that the installation of wig-wag signals at both Honolulu and Hermosa streets would increase the hazard rather than diminish it; and that there is no need for the maintenance of a human flagman at Hermosa street during all of the period mentioned in the Commission's order. The city also advised the Commission, informally, that it wanted to offer testimony on the question whether the Lewis street protection should be paid for by the city or the company.

Therefore, the Commission granted a rehearing which was held at Lindsay before Examiner Westover.

It appears from the testimony at the latter hearing that the Lewis street crossing, as now constructed, is in reality a relocation of a crossing of a roadway in use prior to the construction of the railroad and that the necessary authority for the relocation contained in the Commission's Decision No. 2320, above referred to, was obtained by the city in pursuance of the terms of a grant of easement by the railroad company for the new location of the street.

Tabulations of traffic counts made at Lewis street, Honolulu street, Hermosa street and Eucalyptus avenue, all east and west streets, and being all of the railroad crossings in Lindsay named in the order of their location from south to north, show the following:

Street	Time taken	Pedestrians	Trucks	Wagons	Autos	Total vehicles
Lewis street, April 6, 1921	7:30 a.m. to 6:30 p.m.	117	44	18	341	403
Honolulu street, May 4, 1921	7:30 a.m. to 5:00 p.m.	997	111	20	360	491
Hermosa street, April 5, 1921	7:30 a.m. to 6:30 p.m.	1,231	146	35	1,110	1,291
Eucalyptus avenue, April 6, 1921	7:30 a.m. to 6:30 p.m.	46	33	53	92	179

The testimony indicates that the traffic over the crossings at Lewis street, Honolulu street and Hermosa street would be considerably

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increased during the busy fruit shipping season in May, June, November and December of each year.

The Hermosa street crossing has the heaviest traffic, due to the fact that this street is the outlet to the county highway to Tulare, and because two schools are located on this street. Honolulu street is the principal business street of Lindsay and is located 960 feet southerly from Hermosa street. Sweet Brier avenue and Mount Vernon avenue are paved streets extending north and south on the east and west sides, respectively, of the Southern Pacific Company's right of way and adjacent to it, and both provide thoroughfares between Hermosa street and Honolulu street.

The city of Lindsay represented that although Honolulu street is the principal business street of the city, it would be impracticable to divert the traffic from the Hermosa street crossing to the Honolulu street crossing, for the reason that two important schools, many garages, gasoline filling stations and other business establishments are located on Hermosa street, and also for the reason that during the busy fruit season Mount Vernon avenue is seriously congested by trucks delivering produce to packing houses located on that street between Hermosa street and Lewis street. The evidence does not, however, show that it would be impracticable to divert the major portion of the traffic from the Honolulu street crossing to the Hermosa street crossing.

The evidence also indicates that throughout the year there is a considerable amount of switching by the Southern Pacific in Lindsay during the daytime, which is the time of heaviest street traffic, and that in the busy fruit packing season there is also a considerable amount of night switching.

At the Honolulu and Hermosa street crossings, there are nine tracks to cross and the view is or may be obstructed by packing houses, warehouses and cars spotted on the yard tracks. All southbound passenger trains stop before crossing Honolulu street, and the northbound trains approach this crossing at very slow speed.

In the judgment of the engineering department of the Commission, it would be impossible to give adequate protection to these crossings by means of automatic signals, for the reason that if such signals were connected to the main line only, the absence of a warning indication would be taken as an indication to proceed, in spite of the fact that a switching movement might be occurring on a yard track, and thus the safety signal might become the means of itself inviting accident. On the other hand, if an automatic signal were also connected to the yard tracks, it would be giving a danger signal most of the time whether cars were approaching or not, due to the fact that cars are usually spotted on some one or more of the tracks. As a result, the public would soon come to ignore the warning signal and conditions would be

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no better than at present. Mr. F. M. Worthington, division superintendent of the railroad, expressed similar views. Apparently adequate protection for these crossings can be afforded only by human flagmen or by diversion of traffic. However, it is not believed that traffic conditions justify the expense of placing a human flagman at both of these crossings. The proper solution would appear to consist of concentrating as much of the traffic as possible over one crossing, as at Hermosa street, and properly protecting that crossing with a human flagman during the hours of heaviest traffic, which appear to be between 8 a.m. and 6 p.m. daily. The expense of providing this human flagman should be borne by the Southern Pacific Company, but the responsibility of diverting the traffic from the Honolulu street crossing should be with the city of Lindsay. Should the city fail to reduce the hazard at the Honolulu street crossing by suitable encouragement and direction of proper traffic routing, the cost of required protection at Honolulu street should then be borne by the city or the crossing be closed.

Lewis street crosses five tracks, including a main track, the view of which is, or may be obscured, by packing houses and cars on the yard tracks. However, since Lewis street is located near the southerly end of the yard, practically no switching movements are made over this crossing without a main line or passing track switch being open. It would, therefore, be feasible to so connect an automatic wig-wag signal to the main line and passing track as to give reasonably adequate protection. Lewis street is an important crossing requiring protection. In view of the fact that its prosent location is but a relocation of a crossing existing before the railroad was built, it should be protected with an automatic wig-wag signal to be installed and maintained at the expense of the Southern Pacific Company.

The Eucalyptus avenue crossing is at the northerly end of the Lindsay yard over four tracks, the view of which to the north is obstructed by trees on each side of the railroad. This crossing could be adequately protected by an automatic wig-wag signal, but the necessary traffic over this crossing would not seem to justify the expense of such a signal. The evidence at the rehearing shows that there is relatively light traffic over this crossing, and that approximately 60 per cent of this traffic could be diverted over the Hermosa street crossing without serious inconvenience.

ORDER ON REHEARING.

The Commission having held a public rehearing regarding crossing conditions over the Southern Pacific tracks through the city of Lindsay, Tulare County, the matter being submitted and ready for decision;

It is hereby ordered, that the order contained in Decision No. 8598 of January 26, 1921, in the above entitled case, be and it is hereby

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modified by striking out the second paragraph thereof, and substituting therefor the following four paragraphs, to wit:

Southern Pacific Company, at its own expense, shall protect the Hermosa street crossing by a human flagman between the hours of 8 a.m. and 6 p.m. daily, beginning within twenty (20) days from date hereof, and shall provide suitable signs reading, "Stop—Flagman Absent," which signs, together with lights, shall be placed on each side of the said Hermosa street crossing in the center of the street during the period from 6 p.m. to 8 a.m. daily, when the human flagman is absent.

Southern Pacific Company, at its own expense, shall install and maintain an automatic flagman of a type approved by the Commission at the Lewis street crossing, connected with main line track and the passing track, with track circuits on the latter of a length commensurate with the lower rates of speed of trains. The installation of said automatic flagman shall be made within sixty (60) days from the date of this order, and the Commission shall be notified in writing within thirty (30) days thereafter, of the completion of the installation of said signal.

The city of Lindsay shall install at its own expense suitable route signs directing traffic now using the Honolulu street crossing to Hermosa street. Such route signs shall be placed at the intersection of Honolulu street and Sweet Brier avenue, at the intersection of Hermosa street and Sweet Brier avenue, at the intersection of Honolulu street and Mount Vernon avenue, and at the intersection of Hermosa street and Mount Vernon avenue, and also at the more prominent street intersections in Lindsay, directing traffic to Tulare and vicinity to the Hermosa street crossing.

The city of Lindsay shall provide suitable route signs to divert traffic from the Eucalyptus avenue crossing to Hermosa street, these signs to be installed at the intersection of Sweet Brier avenue with Eucalyptus avenue and at the intersection of Mount Vernon avenue with Eucalyptus avenue.

The Commission reserves the right to make such further orders relative to the protection of said crossings as to it may seem right and proper, if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this ninth day of June, 1921.

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DECISION No. 9080.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING THE EXECUTION OF A MORTGAGE AND THE ISSUANCE OF BONDS.

Application No. 6000.

Decided June 9, 1921.

Chaffee E. Hall, for Applicant.

LOVELAND, *Commissioner*.

THIRD SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 7984, dated August 17, 1920, authorized Great Western Power Company of California to issue and sell $3,500,000 of 8 per cent ten-year general mortgage convertible bonds, but held in abeyance permission to issue, pledge and exchange $3,500,000 of series "B" first and refunding mortgage bonds pending a proper showing being made by applicant on which the Commission could predicate an order authorizing the issuance of first and refunding mortgage bonds; and

Whereas, the Railroad Commission on May 2, 1921, by its second supplemental order in this proceeding, Decision No. 8913, authorized applicant to issue, pledge and exchange $2,205,000 of said $3,500,000 of first and refunding mortgage bonds; and

Whereas, Great Western Power Company of California now reports, in its second supplemental application in the above entitled matter, that the trustee under its first and refunding mortgage has authenticated $1,295,000 of additional series "B" first and refunding bonds, which amount of bonds added to the $2,505,000 mentioned in the preceding paragraph makes a total of $3,500,000; and

Whereas, applicant asks permission to issue and pledge the $1,295,000 of first and refunding bonds with the trustee under its general mortgage and subsequently to exchange them for general mortgage bonds of a like amount, or to sell them and use the proceeds to redeem general mortgage bonds; and

A public hearing having been held and the Railroad Commission being of the opinion that applicant's request should be granted;

It is hereby ordered, that Great Western Power Company of California be and it is hereby authorized to issue $1,295,000 of its series "B" first and refunding mortgage bonds, and to pledge them with the trustee under its general mortgage as security in part for the $3,500,000 of general mortgage bonds authorized to be issued by Decision No. 7984, dated August 17, 1920.

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It is hereby further ordered, that Great Western Power Company of California be and it is hereby authorized to sell or to exchange said $1,295,000 of series "B" bonds, herein authorized, for a like amount of general mortgage bonds, upon the following conditions:

1. The bonds herein authorized to be issued may be exchanged for a like amount of general mortgage bonds when, and as, said general mortgage bonds are called for redemption, on the basis of 105 and accrued interest for general mortgage bonds at par and accrued interest, applicant paying the premium of five per cent in cash.

2. The bonds herein authorized may be sold, for cash, at par and the proceeds used to purchase a like amount of general mortgage bonds at 105 and accrued interest when, and as, said general mortgage bonds are called for redemption, applicant paying the premium of five per cent with moneys derived otherwise than from the sale of said series "B" bonds.

3. On demand of the holders of general mortgage bonds, at any time after series "B" bonds have been pledged to the full par value of general mortgage bonds outstanding, the bonds herein authorized may be exchanged on the basis of 102½ and accrued interest, for general mortgage bonds at par and accrued interest, applicant paying the premium of two and one-half per cent in cash.

4. Applicant shall keep such record of the issue, pledge and exchange of the bonds herein authorized, as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing third supplemental order is hereby approved and ordered filed as the third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this ninth day of June, 1921.

DECISION NO. 9081.

IN THE MATTER OF THE APPLICATION OF B. AND H. TRANSPORTATION COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE STOCK.

Application No. 6241.

Decided June 9, 1921.

Percy Hight and *Alfred Greengrove*, for Applicant.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 8370, dated November 26, 1920, as amended, authorized B. and H. Transportation

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Company to issue and sell $200,000 of common capital stock, subject, among others, to the condition that $58,390.20 of the proceeds be deposited in a special fund and expended only as authorized by the Railroad Commission; and

Whereas, B. and H. Transportation Company reports, in its supplemental petition, filed in the above entitled matter on May 19, 1921, that it has expended for additional equipment the sum of $72,995.60, which has not been paid for by the issue of stock; and

Whereas, applicant, because of such expenditures, asks permission to use the said $58,390.20 of the proceeds derived from the sale of stock authorized by said Decision No. 8370, to finance in part the purchase of said equipment, and a public hearing having been held before Examiner Satterwhite in Los Angeles on June 7, 1921, and it appearing to the Railroad Commission that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expense or to income, and that applicant's request should be granted; now, therefore;

It is hereby ordered, that the order in Decision No. 8370, dated November 26, 1920, as amended, be and it is hereby modified so as to permit B. and H. Transportation Company to use the $58,390.20 deposited in the special fund to permanently finance, in part, the cost of the equipment and properties reported in its supplemental petition filed in this proceeding on May 19, 1921.

It is hereby further ordered, that Decision No. 8370, dated November 26, 1920, as amended, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this ninth day of June, 1921.

DECISION NO. 9089.

IN THE MATTER OF THE APPLICATION OF NEEDLES GAS AND ELECTRIC COMPANY FOR AUTHORITY TO INCREASE ITS RATES FOR ELECTRICAL ENERGY SUPPLIED TO ITS CUSTOMERS IN THE TOWN OF NEEDLES AND SURROUNDING TERRITORY.

Application No. 6710.

Decided June 9, 1921.

FAIR RETURN AMORTIZATION.—A utility's consumers can not be required to pay a rate in addition to a fair return that will amortize over a period of years the equivalent of the amount by which its returns from past operations have fallen short of a fair return.

R. S. Masson, for Applicant.

Benjamin Harrison, for City of Needles.

BY THE COMMISSION.

OPINION.

Needles Gas and Electric Company, hereinafter referred to as applicant, requests authority to increase its electric rates. It alleges that

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on account of the increase in cost of oil it will be unable to continue to sell electric energy at the prevailing rates, which do not yield it a fair return upon its investment.

Applicant further alleges that during the year 1920 it received a return of 3½ per cent upon its investment, and that during the year 1921, due to the increase in operating expenses, the return will be considerably less than this; that it has reached the point where it is no longer able to purchase materials and supplies sufficient to operate upon its own credit, and that within the past few weeks it has been able to continue operations only through the borrowing of money by an official of the company, Mr. R. S. Masson, upon his own personal credit, and that unless the company obtains immediate relief in the form of increased rates it will be necessary for it to request this Commission to suspend operations and to discontinue service to its consumers.

Applicant requests that the Commission make an investigation of its operations and authorize it to put into effect rates suggested in Exhibit E, attached to the application, and, further, that the Commission authorize applicant to immediately put into effect a surcharge sufficient to enable it to continue its operations to such a time as a formal hearing on this matter may be held.

A hearing was held in this matter before Examiner Westover in the city of Needles on April 25, 1921, at which time evidence was taken and the matter submitted.

Applicant operates a 200-horsepower semi-Diesel plant and also two gas engines of 150- and 100-horsepower capacity, respectively, in the generation of electric energy, and a distribution system serving the town of Needles. In 1920 it served 602 domestic consumers, 60 commercial consumers and 17 power consumers. The total sales for 1920 amounted to 265,612 kilowatt hours, from which it received a revenue of $32,385.

The present rates in effect for service rendered by Needles Gas and Electric Company were fixed by this Commission on September 10, 1920, in Decision No. 8073. The Commission made a valuation of applicant's properties as of January 1, 1920, in which it determined that the historical reproduction cost of the physical properties was $62,833. Additions and betterments chargeable to the company during 1920 amounted to $2,580. The estimated additions and betterments

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for 1921 are $2,000. The rate base for the year 1921, based on the above, is set forth in the following table:

TABLE NO. 1.

Rate Base.

Historical reproduction cost as of January 1, 1920	$62,833 00
Net additions and betterments, 1920	2,580 00
Rate base as of January 1, 1921	$65,413 00
Additions and betterments, six months of 1921	1,000 00
Material and supplies	3,000 00
Working cash capital	4,000 00
Rate base as of June 30, 1921	$73,413 00

Applicant submitted evidence to the effect that there would be no increase in sales during the year 1921. From investigation of conditions at Needles it appears to the Commission that there will be some increase in sales. It is estimated that if no change is made in the present rates the sales will amount to 290,000 kilowatt hours, but that if the applicant's proposed rates had been made effective the first of the year the sales for 1921 would amount to 270,000 kilowatt hours.

Applicant used two grades of fuel oil. In the operation of the semi-Diesel engine 28 degrees Baume oil is used and 38 degrees Baume oil is required in the operation of the gas engine. The cost of fuel oil f. o. b. Needles to applicant since 1916 has increased as follows: For 28 degrees oil from $1.40 to $4.46 per barrel, and for 38 degrees oil from $1.65 to $7.20 per barrel. The latter figures were the effective prices to applicant at the date of the hearing. Since then the price of oil has decreased $0.25 per barrel. This new price will not, however, affect applicant's operation costs until July of this year, owing to the fact that the present supply of oil on hand will supply its needs until then. In estimating applicant's fuel oil expense this reduction in price of oil has been taken into account.

Applicant has made an adjustment in the wages paid to its employees at Needles amounting to a reduction in wages paid, but with the provision that the employees will share in the profits received by the company. The Commission will decrease the estimated amount allowed as operation expense to cover general office salary by the same amount.

Table No. 2 sets forth the applicant's operations for 1920 and also the revised estimate for 1921, based on the evidence herein, and on the condition that the present rates remain in effect for an entire year. A separate column also sets forth the effect, were the proposed rates made effective for the entire year.

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TABLE NO. 2.

Needles Gas and Electric Company—Operations for 1920 and Estimate for 1921.

Item	1920	Estimate for 1921	
		Present rate	Company's proposed rate
Rate base	$68,555	$73,413	$73,413
Sales, kilowatt hour	265,612	290,000	270,000
Revenue	$32,385	$36,600	$39,800
Operating expense:			
Production—			
Fuel oil	$8,280	$13,380	$12,460
Other production expense	8,484	7,611	7,611
Total	$16,764	$20,991	$20,071
Distribution	1,277	1,277	1,277
Commercial	1,060	1,060	1,060
General and miscellaneous	5,636	5,636	5,636
Taxes	1,764	3,477	3,781
Total	$26,501	$32,441	$31,825
Net for return and depreciation	$5,884	$4,159	$7,975
Depreciation	1,924	1,992	1,992
Net for return	$3,960	$2,167	$5,983
Per cent return	5.77%	2.97%	8.17%

Based on the Commission's estimate, the net return on investment for 1921, after deducting depreciation, assuming the present rates to be in effect for the entire year of 1921, will be 2.97 per cent. Assuming applicant's proposed rates to have been in effect for the entire year 1921, the net return on investment, after allowing depreciation, will amount to 8.17 per cent. In the past, in so far as records are available, applicant has never earned an 8 per cent return upon its investment. It requests at this time that rates be fixed so that they will give not only a fair return after deducting operating expense and depreciation, but an additional amount each year which will amortize over a period of years the equivalent of the amount by which its returns from past operations have fallen short of a fair return.

Considering the economic conditions existing and the rates now in effect, it is very clear that applicant can not at this time earn a return which normally might be considered fair. Applicant's consumers can not, however, be required to reimburse it for amounts below a fair return unearned in the past.

It was suggested at the hearing that applicant could possibly purchase electric energy from the Murphy Water Company at a lower figure than that at which it could generate it. This matter has been

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investigated by the Commission and we find that Murphy Water Company has at this time certain generating equipment which is not being used, but the Murphy Water Company, in answer to an inquiry from the Commission, has advised that it is not at present in a position to sell electric energy to applicant.

Applicant requests that the rates which are proposed in its Exhibit "E" be made effective. In the hearing, however, applicant requested that if the Commission found these proposed rates to be unreasonable the Commission fix whatever rates it found to be reasonable.

From the evidence submitted in this matter, it is readily apparent that some relief must be allowed applicant at this time. The Commission feels that if the present rates applicable to domestic lighting and electric illumination be increased as suggested by applicant, the resulting reduction in sales will more than offset the increase in revenue contemplated from the higher rates. The rates proposed by applicant will be authorized except those applicable to domestic and residence lighting and to electric illumination. The present rates applicable to these two classes of service should be increased, but not to the extent proposed by applicant. The rates which the Commission believes to be reasonable for these two classes of service are set forth in the order following.

It must be borne in mind that electric service in Needles is rendered under conditions that are far more expensive than in practically any other place in California, due to its isolation and limited load, and necessary rates must be relatively high.

The rates herein will give to applicant a net return as high as can be reasonably obtained under conditions existing, but which is less than that generally considered as reasonable under more favorable conditions.

ORDER.

Needles Gas and Electric Company having applied to the Railroad Commission for the determination of just and reasonable rates for electric service, a hearing having been held, and the matter having been submitted and now ready for decision:

The Railroad Commission hereby finds as a fact that the rates now charged by Needles Gas and Electric Company for electric energy are unjust and unreasonable, and that the rates hereinafter set forth are just and reasonable for service supplied.

Basing its order upon the above findings of fact and other findings of fact contained in the opinion preceding this order;

It is hereby ordered, that Needles Gas and Electric Company be and it is hereby authorized to charge and collect for electric service

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rendered, based on regular meter readings taken on and after June 20, 1921, the following rates:

SCHEDULE No. "A."

Domestic and residence service.

This schedule applies to continuous service.

Territory.

Entire territory served by company.

Rate.

First 20 kilowatt hours per meter per month, 18 cents per kilowatt hour.

All over 20 kilowatt hours per meter per month, 13 cents per kilowatt hour.

Minimum charge.

$1.50 per meter per month.

Special conditions.

Motor of ½ horsepower or less capacity and lamp socket appliances may receive service under this schedule.

SCHEDULE No. "B."

Commercial lighting service.

This schedule applies to continuous service.

Territory.

Entire territory served by company.

Rate.

For an amount of energy equal to or less than 75 hours use per month of the maximum demand, the rate to be 18 cents per kilowatt hour.

For all energy in excess of the above the rate to be 13 cents per kilowatt hour.

Minimum charge.

$1 per month per kilowatt or fraction thereof of the maximum demand, but in no case less than $1 per month.

Special conditions.

The maximum demand shall be determined by test or inspection by the company. The company will notify the consumer of such test so that he may be present if he so desires.

SCHEDULE No. "C."

Electric Lighting.

(Guaranteed use; limited by contract to hours stated.)

This rate applies when contracts are made for periods of one year for a stated amount of electricity during stated hours of each day of the term of said contract. The contract shall provide regular monthly guaranteed payments of amounts derived as follows:

Maximum demand times the unit meter rate shown below, times the number of hours per day, times the number of days in the month.

(Does not apply to consumers having maximum demand under ½ kilowatt.)

Number of hours use per day guaranteed	Cents per kilowatt hour for maximum demand of—			
	½ kilowa't to 1 kilowatt	1 kilowatt to 2 kilowatt	2 kilowatt to 5 kilowatt	5 kilowatt and up
4	13½ cents	12½ cents	12 cents	11½ cents
6	12½ cents	11½ cents	11 cents	10½ cents
8	11½ cents	10½ cents	10 cents	9½ cents
10	10½ cents	9½ cents	9 cents	8½ cents
12	9½ cents	8½ cents	8¼ cents	8 cents
15	8½ cents	7½ cents	7¼ cents	7 cents

SCHEDULE No. "D."

Industrial power service.

(To apply to all power installations in which the aggregate horsepower of motors installed is ½ or more horsepower, by manufacturers' rating.)

Charges for electricity sold for power are made up of a fixed sum called Demand Charges and a variable sum called Meter Charges.

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Demand Charge.

The consumer shall have the option of classifying equipment as Standard Equipment or Intermittent Equipment.

Standard demand rate.

A charge of four dollars ($4) per horsepower per month is made for each horsepower of demand required by equipment classified as Standard Equipment.

Intermittent demand rate.

A charge of three dollars ($3) per horsepower per month is made for each horsepower of demand required by equipment classified as Intermittent Equipment.

Meter Charge.

Standard meter charge.

For power used by one consumer on one premises for motors classified as Standard Equipment, four cents (4c.) per kilowatt hour for the first five hundred (500) kilowatt hours per month, and three and a half cents (3½c.) per kilowatt hour for all in excess of five hundred (500).

Intermittent meter charge.

For power used by one consumer on one premises for motors classified as Intermittent Equipment, six cents (6c.) per kilowatt hour for the first five hundred (500) kilowatt hours per month, and four cents (4c.) per kilowatt hour for all in excess of five hundred (500).

Dated at San Francisco, California, this ninth day of June, 1921.

DECISION No. 9094.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING TO APPLICANT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE THE RIGHT, PRIVILEGE AND FRANCHISE GRANTED TO THE APPLICANT BY AN ORDINANCE OF THE CITY OF VALLEJO, MARKED EXHIBIT "A" HEREOF.

Application No. 6839.

Decided June 13, 1921.

C. P. Cutten, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

Pacific Gas and Electric Company applies for a certificate that public convenience and necessity require the exercise by it of the right, privilege and franchise to distribute gas for heating and power purposes granted by an ordinance of the city of Vallejo, adopted on the twenty-third of August, 1917.

Applicant shows that it has been engaged in the business of distributing gas for lighting, heating and power purposes for many years past and that no other person, firm or corporation is so engaged as a public utility in the city of Vallejo. The distribution of gas for lighting purposes is carried on under constitutional rights and the ordinance franchise, authority for the exercise of which is now sought, covers the distribution of gas for heating and power purposes through the same

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system. The need of this franchise is more or less technical as it contemplates no important change in existing conditions.

A hearing was held in San Francisco on June 1, 1921, at which time evidence was introduced and the matter submitted. Pacific Gas and Electric Company filed a stipulation, duly executed by authority of its board of directors, in which it agrees that it, its successors or assigns, will never claim before the Railroad Commission or any court or other public body any value for the right, privilege and franchise granted under the ordinance in question, said franchise having been acquired without cost to applicant.

Public interest requires that the public continue to receive the service which it has received in the past and for which it depends on a continuation of applicant's operations.

I recommend the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for a certificate that public convenience and necessity require the exercise of the right and privilege under a franchise granted to it by the city of Vallejo by ordinance No. 257 N. S., adopted August 23, 1917, a public hearing having been held, Pacific Gas and Electric Company having stipulated, in form satisfactory to this Commission, as to its claim for the value of said franchise, and the matter being submitted:

The Railroad Commission of the State of California does hereby certify and declare that public convenience and necessity require the exercise by Pacific Gas and Electric Company of the right, privilege and franchise granted by said ordinance No. 257 N. S., of the city of Vallejo.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of June, 1921.

DECISION NO. 9095.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING TO APPLICANT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE THE RIGHT, PRIVILEGE AND FRANCHISE GRANTED TO APPLICANT BY AN ORDINANCE OF THE CITY OF WOODLAND MARKED EXHIBIT "A" HEREOF.

Application No. 6838.

Decided June 13, 1921.

C. P. Cutten, for Applicant.

BENEDICT, *Commissioner*,

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OPINION.

Pacific Gas and Electric Company applies for a certificate that public convenience and necessity require the exercise by it of the right, privilege and franchise to distribute electricity for heating and power purposes granted by an ordinance of the city of Woodland, adopted on the seventh of March, 1921.

Applicant shows that it has been engaged in the business of distributing electricity for lighting, heating and power purposes for many years and that no other person, firm or corporation is so engaged as a public utility in the city of Woodland. Operations during the past years have been under constitutional franchise rights as far as the distribution of electricity for lighting purposes is concerned, and the distribution of electricity for heating and power purposes has been covered by ordinance franchise which has now expired. The franchise, authority for the exercise of which is now sought, is merely a renewal.

A hearing was held in San Francisco on June 1, 1921, at which time evidence was introduced and the matter submitted. Pacific Gas and Electric Company filed a stipulation, duly executed by authority of its board of directors, in which it agrees that it, its successors or assigns, will never claim before the Railroad Commission or any court or other public body a value for the right, privilege and franchise granted under the ordinance in question in excess of the actual cost to applicant of acquiring said franchise, stated in the stipulation to be the sum of $100.

Public convenience and necessity without doubt require that applicant continue to supply the services which it now supplies and for which the public depends upon it.

I recommend the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for a certificate that public convenience and necessity require the exercise of the right and privilege under a franchise granted to it by the city of Woodland by ordinance No. 244, adopted March 7, 1921, a public hearing having been held, Pacific Gas and Electric Company having stipulated in form satisfactory to this Commission as to its claim for the value of said franchise, and the matter being submitted:

The Railroad Commission of the State of California does hereby certify and declare that public convenience and necessity require the exercise by Pacific Gas and Electric Company of the right, privilege and franchise granted by said ordinance No. 244 of the city of Woodland.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of June, 1921.

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DECISION NO. 9096.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING TO APPLICANT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE THE RIGHT, PRIVILEGE AND FRANCHISE GRANTED TO APPLICANT BY AN ORDINANCE OF THE CITY OF WOODLAND MARKED EXHIBIT "A" HEREOF.

Application No. 6837.

Decided June 13, 1921.

C. P. Cutten, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Pacific Gas and Electric Company applies for a certificate that public convenience and necessity require the exercise by it of the right, privilege and franchise to distribute gas for heating and power purposes granted by an ordinance of the city of Woodland, adopted on the seventh of March, 1921.

Applicant shows that it has been engaged in the business of distributing gas for lighting, heating and power purposes for many years past and that no other person, firm or corporation is so engaged as a public utility in the city of Woodland. Operations during recent years have been under constitutional franchise rights so far as the distribution of gas for lighting purposes is concerned, and the distribution of gas for heating and power purposes has been covered by ordinance franchise which has now expired. The franchise, authority for the exercise of which is now sought, is merely a renewal.

A hearing was held in San Francisco on June 1, 1921, at which time evidence was introduced and the matter submitted. Pacific Gas and Electric Company filed a stipulation, duly executed by authority of its board of directors, in which it agrees that it, its successors or assigns, will never claim before the Railroad Commission or any court or other public body a value for the right, privilege and franchise granted under the ordinance in question in excess of the actual cost to applicant of acquiring said franchise, stated in the stipulation to be the sum of $100.

Public convenience and necessity unquestionably require that applicant continue the service which it is now rendering and for which the public depends upon it.

I recommend the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for a certificate that public convenience and necessity

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require the exercise of the right, privilege and franchise granted to it by the city of Woodland by an ordinance No. 245, adopted March 7, 1921, a public hearing having been held, Pacific Gas and Electric Company having stipulated in form satisfactory to this Commission as to its claim for the value of said franchise, and the matter having been submitted:

The Railroad Commission of the State of California does hereby certify and declare that public convenience and necessity require the exercise by Pacific Gas and Electric company of the right, privilege and franchise granted by said ordinance No. 245 of the city of Woodland.

The foregoing opinion and order are hereby approved and ordered as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of June, 1921.

DECISION No. 9097.

IN THE MATTER OF THE APPLICATION OF EMIL FIRTH FOR AN ORDER AUTHORIZING AN INCREASE OF WATER RATES.

Application No. 6121.

Decided June 13, 1921.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas, this Commission having issued its Decision No. 8777, dated March 21, 1921, in the above entitled proceeding, establishing a schedule of rates for the furnishing of water service, the order in said decision containing the following provision:

> It is hereby further ordered, that authority to charge and collect the rates herein above specified is expressly conditioned upon the refund or rebate of such funds as are improperly held by this utility to the consumers involved, and the date upon which the above authorized rates shall become effective shall be established by this Commission after a properly certified showing has been submitted to this Commission that the proper refunds or rebates have been made to the proper parties, so far as such parties and sums can be ascertained, with a statement by the utility that it stands ready to make such settlement with any consumer who has by inadvertence or otherwise been omitted from the list of beneficiaries and who can submit proper proof that he is entitled to such rebate.

And the applicant having satisfactorily complied with the conditions referred to above;

It is hereby ordered, that the schedule of rates for the furnishing of water service as established in this Commission's Decision No. 8777, dated March 21, 1921, in this proceeding, shall become effective for all service rendered subsequent to June 14, 1921. In all other respects the said Decision No. 8777 shall remain in full force and effect.

Dated at San Francisco, California, this thirteenth day of June, 1921.

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DECISION NO. 9098.

IN THE MATTER OF THE APPLICATION OF SAN GORGONIO WATER COMPANY FOR AN ORDER AUTHORIZING IT TO INCREASE ITS RATES.

Application No. 4880.

IN THE MATTER OF THE APPLICATION OF BEAUMONT LAND AND WATER COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN RATES.

Application No. 4881.

BEAUMONT IRRIGATION DISTRICT, A CORPORATION,

vs.

BEAUMONT LAND AND WATER COMPANY AND SAN GORGONIO WATER COMPANY.

Case No. 1345.

Decided June 13, 1921.

Carnahan and Clark, by *H. L. Carnahan*, for Applicants and Defendants.
W. E. Evans, H. B. Lynch and *A. L. Ellis*, for Complainant and Protestant.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas, on June 30, 1920, the Railroad Commission issued its decision No. 7819, in the above entitled proceedings, establishing a 25 per cent surcharge on all water bills rendered on and after July 1, 1920, upon the condition pursuant to stipulation, that at the time when the Beaumont Irrigation District takes over the ownership and operation of applicants' properties, applicants shall hold for the return to their consumers, after an investigation and further order of this Commission, any surplus derived from the surcharge over reasonable operating expenses; and

Whereas, this Commission in its Decision No. 8215, dated October 9, 1920, in Application No. 6188, entitled "*In the Matter of the Joint Application of the Beaumont Land and Water Company, San Gorgonio Water Company and Beaumont Irrigation District for an order authorizing said companies to sell their water system to said District,*" granted applicants authority to transfer their water system to the Beaumont Irrigation District, and the transfer having been consummated; and

Whereas, counsel for applicants and for protestants herein having filed with this Commission a joint stipulation indicating their willingness that this proceeding be terminated without the necessity of the Commission making an audit of the revenues and expenditures of applicants, as provided in the Commission's Decision No. 7819, in the above entitled proceedings;

It is hereby ordered, that those provisions contained in this Commission's Decision No. 7819, dated June 30, 1920, in the above entitled proceedings, requiring an accounting of the revenues and expenditures

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of applicants during the period the surcharge therein authorized was in effect; and, further, the holding of any surplus derived from such surcharge be and such provisions are hereby rescinded.

Dated at San Francisco, California, this thirteenth day of June, 1921.

DECISION NO. 9099.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF ITS SERIES "B" BONDS IN THE AMOUNT OF THREE MILLION, FIVE HUNDRED THOUSAND DOLLARS.

Application No. 6894.

Decided June 13, 1921.

Paul Overton, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

Los Angeles Gas and Electric Corporation asks permission to issue and sell at 93 and accrued interest, $3,500,000 of series "B" 7 per cent general and refunding mortgage gold bonds, and use the proceeds to reimburse its treasury on account of moneys heretofore expended on capital account and for the purpose of paying for plant extensions, additions and betterments to be installed during 1921.

Applicant as of June 1, 1921, reports (Exhibit "A") $11,060,700 of stock, consisting of $10,000,000 of common and $1,060,700 of 6 per cent preferred, outstanding. Its funded debt outstanding is reported at $13,869,000, which includes $1,500,000 of Los Angeles Gas and Electric Corporation 5 per cent bonds pledged to secure the payment of $1,000,000 of general mortgage and collateral 7 per cent bonds dated April 1, 1920, and $400,000 of bonds of the same issue certified by the trustee but not yet sold. The authority to sell the $400,000 of bonds was granted by the Commission in Decision No. 8736.

The Railroad Commission, by Decision No. 8904, dated April 29, 1921, authorized applicant to execute a trust deed securing an authorized issue of $75,000,000 of general and refunding mortgage gold bonds. The Commission has heretofore authorized applicant to issue and sell $2,500,000 of said bonds.

Applicant reports in Exhibit "D" proposed expenditures during 1921 for additions and extensions to plants, properties and equipment in the amount of $7,039,320. This amount is summarized as follows:

Gas works	$3,444,780 00
Electric works	557,250 00
Gas distributing system	1,806,875 00
Electric distributing system	415,575 00
Completion of additions and extensions authorized for 1920	400,000 00
Miscellaneous	414,840 00
Total	$7,039,320 00

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Applicant reports that from January 1, 1921, to May 31, 1921 (May expenses estimated), it has expended for permanent extensions and additions $2,886,152.94, and that against $1,856,362.92 of said expenditures, no bonds have been issued. It is to reimburse partially its treasury on account of these expenditures and to pay the cost of constructing permanent extensions and additions reported in Exhibit "D," that applicant asks permission to issue and sell $3,500,000 of its series "B" general and refunding mortgage gold bonds. Even though applicant asks permission to reimburse its treasury, the testimony shows that all the proceeds from the sale of the bonds will be invested in permanent extensions and additions reported in Exhibit "D."

I herewith submit the following form or order:

ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for permission to issue and sell $3,500,000 of series "B" 7 per cent general and refunding mortgage gold bonds due June 1, 1931, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant for the purposes specified in this order, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Los Angeles Gas and Electric Corporation be and it is hereby authorized to issue and sell for cash at not less than 93 per cent of their face value and accrued interest, $3,500,000 of series "B" 7 per cent general and refunding mortgage gold bonds, due June 1, 1931.

The authority herein granted is subject to further conditions as follows:

1. The proceeds obtained from the sale of $1,392,272.19 of bonds herein authorized to be issued shall be used by applicant to reimburse its treasury on account of moneys expended for permanent extensions and additions up to May 31, 1921. All moneys used to reimburse applicant's treasury, as well as the proceeds from the remainder of the bonds herein authorized to be issued, shall be used by applicant to pay in part the cost of permanent extensions and additions reported in Exhibit "D," filed in this proceeding.

2. Los Angeles Gas and Electric Corporation shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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3. The authority herein granted will not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

4. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before November 15, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of June, 1921.

DECISION No. 9100.

IN THE MATTER OF THE APPLICATION OF MRS. G. GUERRA, OWNER OF CAMBRIA TELEPHONE COMPANY, FOR PERMISSION TO TOTALLY DISCONTINUE ALL SERVICE AND TO ENTIRELY WITHDRAW FROM PUBLIC SERVICE IN ALL TERRITORY SERVED BY SUCH COMPANY.

Application No. 6016.

Decided June 13, 1921.

DISCONTINUANCE OF SERVICE, RATES.—The owner of a public utility or anyone else whose duty it is or might be to provide service is entitled to such revenues as may be necessary to make its continuance possible. Where rates are inadequate application should be made for this increase.

Albert Nelson, for Applicant.

L. J. Migrans, for Piedras Blancas Light House.

BY THE COMMISSION.

OPINION.

Mrs. G. Guerra, petitioner in this proceeding, is sole owner of a small telephone system operating as a public utility in and in the vicinity of the town of Cambria, San Luis Obispo County, and serving at the time of this proceeding about 95 patrons. Connection with the long distance toll lines of The Pacific Telephone and Telegraph Company is maintained to provide public service to and from outside points.

The petition sets forth that the expense of operation far exceeds the revenue, that patrons threaten to order their telephones taken out if an increase in rates is attempted, that it is difficult to employ necessary labor for maintenance and operation and that petitioner is unable to secure a purchaser to take over the operation of the system. As originally filed, the petition asks for an order permitting petitioner to withdraw entirely from public service.

A hearing was held before Examiner Westover at Cambria. At this hearing, counsel for petitioner asked for and was granted permission to amend the petition by asking, in the event of a denial, that the rates be increased sufficiently to justify the service.

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Cambria is located about 37 miles northwest of San Luis Obispo and about 15 miles from Cayucos, the nearest town. The only present available wire communication with the outside world is by means of petitioner's service and its toll connection hereinbefore referred to. About twenty of petitioner's patrons appeared in protest against withdrawal of service, and it appears that this protest is general. None of those so protesting have protested to the Commission against the payment of sufficient rates to justify continuance of service and all of those appearing at the hearing have signified their willingness to pay an increase if necessary. Petitioner has also expressed willingness to continue if given adequate rates.

Petitioner's claim that the expense of operation far exceeds the revenue is not fully supported by the evidence. It was shown, however, that complete records of actual expenditures have not been kept and it is apparent that the maintenance of the property has been neglected. It is probable, therefore, that if the system were properly maintained the expenses of operation would at least equal, if not exceed, present revenues.

It is our opinion that public convenience and necessity require continuance of telephone service within the territory now served by petitioner's lines. It is obvious, of course, that the owner of this system or anyone else whose duty it is or might be to provide service is entitled to such revenues as may be necessary to make its continuance possible. The Commission is not passing upon a question of rates in this proceeding, but if the present rates are inadequate, petitioner should at once file with the Commission an application for authority to increase them, whereupon the Commission, after investigation, will authorize the establishment of such rates as it may find to be just and reasonable.

ORDER.

Mrs. G. Guerra, owner of the Cambria Telephone Company, serving the town of Cambria, San Luis Obispo County, and vicinity, having applied to the Railroad Commission for authority to totally discontinue all service and entirely withdraw from public service, a public hearing having been held, the Commission being fully apprised, and it appearing to the Commission, as set forth in the opinion preceding this order, that public convenience and necessity require the continuance of said service and that this application should be denied;

It is hereby ordered, that the application herein be and it is hereby denied.

Dated at San Francisco, California, this thirteenth day of June, 1921.

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DECISION No. 9101.

PACIFIC PORTLAND CEMENT COMPANY, CONSOLIDATED, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION, ET AL.

Case No. 1447.

Decided June 13, 1921.

JURISDICTION.—Finding as to reasonableness of a rate established subsequent to the date upon which a case is submitted does not conflict with principles or procedure of the Commission.

BY THE COMMISSION.

OPINION ON PETITION FOR REHEARING AND MODIFICATION OF ORDER.

On May 12, 1921, the Railroad Commission made its order in Case No. 1447, and by Decision No. 8962 dismissed the proceeding.

On the second day of June, 1921, applicant filed a petition for rehearing based upon alleged errors in the findings of the Commission in its decision. On page 16 of the typewritten copy of the opinion the following statement was made, to which applicant makes objection:

> This determination is necesarily based upon the record presented in this case, which was completed and submitted on August 26, 1920.
>
> * * * * * * *
>
> I must conclude, however, from the record before me that not only is a rate in excess of 70 cents per ton charged and collected since September 1, 1920, unreasonable, but that the reasonable rate is 70 cents per ton for the future In reaching this conclusion I am not unmindful of the authority granted the carrier in Decision No. 7983, Application No. 5728, August 17, 1920, to increase the entire fabric of freight rates, but that authority was granted without consideration of any specific rates, they being subject to future adjustments as appeared necessary. Clearly the record in this proceeding shows that a rate higher than 70 cents per ton would at this time and for the future be excessive and unreasonable.

Counsel for the petitioner alleges that the evidence does not justify the findings in the decision appearing on page 16, quoted above, and also that the Commission had no jurisdiction upon the record to make any finding as to the reasonableness of a rate established subsequent to the date upon which the case was submitted, in this instance being August 26, 1920.

There is nothing in the decision in this proceeding which in any way conflicts with any of the principles or procedures of this Commission in other cases. The recommendations offered are no different from those given in many like proceedings and we fail to find wherein the Commission was in error.

The Commission finds no reason to change its opinion as expressed in the decision, and counsel's contention is without merit.

The petition will be denied.

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ORDER DENYING PETITION FOR REHEARING AND MODIFICATION OF ORDER.

The Southern Pacific Company having filed petition for a rehearing herein, and the Railroad Commission finding that no good reason exists why a rehearing should be held, or the order modified;

It is hereby ordered, that the petition be and the same is hereby denied.

Dated at San Francisco, California, this thirteenth day of June, 1921.

DECISION No. 9102.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF BONDS OF THE PAR VALUE OF ONE HUNDRED SEVENTY-NINE THOUSAND DOLLARS.

Application No. 6863.

Decided June 13, 1921.

Chickering and Gregory, by *Allen L. Chickering,* for Applicant.

MARTIN, *Commissioner.*

OPINION.

Western States Gas and Electric Company asks permission to issue $179,000 face value of its first and refunding mortgage 5 per cent sinking fund gold bonds due June 1, 1941.

As of April 30, 1921, Western States Gas and Electric Company reports $3,231,000 of common and $2,835,500 of 7 per cent preferred stock outstanding. Its funded debt, in the hands of the public, is reported at $7,208,500 and consists of $239,000 of American River Electric Company 5 per cent bonds due July 1, 1933; $4,206,500 of Western States Gas and Electric Company 5 per cent bonds due June 1, 1941; $1,199,000 of Western States Gas and Electric Company 6½ per cent notes due August 1, 1923, and $1,564,000 of Western States Gas and Electric Company 6 per cent notes due February 1, 1927. In addition, the company reports $1,724,000 of its bonds outstanding as collateral to secure the payment of the $1,199,000 of 6½ per cent notes.

Applicant reports in this application and in exhibits attached to the petition, that up to April 30, 1921, it has expended for plant extensions, additions and betterments the sum of $565,518.27, which expenditures remain uncapitalized. Applicant is of the opinion that it can call upon the trustee under its first and refunding mortgage to certify bonds in the amount of $179,111.98 on account of expenditures made up to April 30, 1921. Applicant intends to issue and sell $179,000 of the bonds at not less than 77 per cent of their face value and accrued interest, and use the proceeds to reimburse its treasury and pay indebtedness.

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The testimony shows that applicant is asking permission to issue additional first and refunding mortgage bonds for the reason that it has been unable to carry forward its financial plans as rapidly as it had expected, and that it does not intend to go forward with those plans until it has secured the necessary permits or licenses for the construction of its new hydroelectric plant or plants.

I herewith submit the following form of order:

ORDER.

Western States Gas and Electric Company having applied to the Railroad Commission for authority to issue $179,000 of bonds, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of said bonds is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to issue and sell at not less than 77 per cent of their face value and accrued interest, on or before September 1, 1921, $179,000 of its first and refunding mortgage 5 per cent sinking fund gold bonds, due June 1, 1941.

The authority herein granted is subject to further conditions as follows:

1. The proceeds obtained from the sale of the bonds herein authorized to be issued and sold shall be used by applicant to reimburse in part its treasury because of the expenditures for plant extensions, additions and betterments installed prior to April 30, 1921, and to pay indebtedness incurred for said purposes and mentioned in this application.

2. Western States Gas and Electric Company shall keep such record of the issue and sale of the bonds herein authorized, and of the disposition of the proceeds as will enable it to file, on or before the 25th day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of June, 1921.

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DECISION NO. 9104.

IN THE MATTER OF THE APPLICATION OF MATTIE L. GOODWIN AND GRACE WEBB, COPARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF QUINCY WATER WORKS, FOR ORDER APPROVING THE ISSUANCE OF NOTES AND MORTGAGES SECURING SAME.

Application No. 6909.

Decided June 14, 1921.

L. S. Webb, for Applicants.

LOVELAND, *Commissioner*.

OPINION.

Mattie L. Goodwin and Grace Webb, copartners, doing business under the firm name and style of Quincy Water Works, ask permission to issue notes of the total face value of $4,000 and execute a mortgage or mortgages securing the payment of the notes.

The record shows that applicants are the owners of a water plant and system used to supply water to the town of Quincy for domestic purposes. They have been the owners of such water plant and system for some years past. For the purpose of paying for certain improvements, betterments and extensions, applicants issued two notes, one for $3,000, the other for $1,000, to B. F. Chandler. At the time these notes were issued, applicants were not advised nor were they aware of the fact that their issue had to be authorized by the Railroad Commission. In my opinion, the notes heretofore issued and the mortgages executed are void. New notes should be issued to refund the indebtedness represented by the notes now outstanding and new mortgages executed to secure the payment of the notes herein authorized to be issued.

I herewith submit the following form of order:

ORDER.

Mattie L. Goodwin and Grace Webb, copartners, doing business under the firm name and style of Quincy Water Works, having applied to the Railroad Commission for permission to issue $4,000 face value of notes and execute a mortgage or mortgages to secure the payment of same, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified in this order, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Mattie L. Goodwin and Grace Webb, copartners, doing business under the firm name and style of Quincy

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Water Works, be and are hereby authorized to issue a note or notes having an aggregate face value of $4,000, and to execute a mortgage or mortgages to secure the payment of said note or notes, said mortgage or mortgages to be substantially in the same form as the mortgages filed in this proceeding and marked Exhibits "A" and "B."

The authority herein granted is subject to the following conditions:

1. The note or notes herein authorized to be issued shall bear interest at the rate of not exceeding 7 per cent per annum and shall be payable on or before four (4) years after date.

2. The note or notes herein issued shall be issued for the purpose of refunding the indebtedness represented by the $3,000 note issued on October 19, 1915 to B. F. Chandler and by the $1,000 note issued on January 15, 1917 to B. F. Chandler, it being understood that the notes heretofore issued to B. F. Chandler will be canceled.

3. The authority herein granted to execute a mortgage or mortgages is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or mortgages as to such other legal requirements to which such mortgage or mortgages may be subject.

4. The authority herein granted will not become effective until applicants have paid the fee prescribed by the Public Utilities Act.

5. Applicants shall file with the Commission a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted will apply only to such note or notes and to such mortgage or mortgages as may be issued and executed on or before September 15, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of June, 1921.

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Decision No. 9105.

IN THE MATTER OF THE APPLICATION OF COLORADO RIVER TELEPHONE COMPANY, A CORPORATION, FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO CONSTRUCT AND MAINTAIN AND OPERATE A TELEPHONE AND TELEGRAPH LINE FROM BLYTHE TO NILAND.

Application No. 5375.

IN THE MATTER OF THE APPLICATION OF COLORADO RIVER TELEPHONE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF STOCK AND OF CORPORATION NOTES.

Application No. 6083.

Decided June 14, 1921.

By the Commission.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission, by Decision No. 8921, dated May 3, 1921, having authorized Colorado River Telephone Company, among other things, to execute $20,000 face value of five-year 7 per cent secured notes, subject, among others, to the condition that none of the $20,000 of notes be issued until the Commission had authorized the execution of a deed of trust securing their payment, and Colorado River Telephone Company having filed with the Commission on June 9, 1921, a copy of its proposed deed of trust securing the payment of $20,000 of five-year 7 per cent notes;

And the Commission being of the opinion that applicant should be permitted to execute a deed of trust substantially in the same form as that filed;

It is hereby ordered, that Colorado River Telephone Company be and it is hereby authorized to execute a deed of trust substantially in the same form as the deed of trust filed with the Commission in this proceeding on June 9, 1921; provided—

That the authority herein granted to execute a deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

It is hereby further ordered, that the order in Decision No. 8921, dated May 3, 1921, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this fourteenth day of June, 1921.

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DECISION No. 9109.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO GAS COMPANY FOR PERMISSION TO SELL BONDS OF THE PAR VALUE OF FOUR HUNDRED THOUSAND DOLLARS AND TO EXECUTE A MORTGAGE ON ITS PROPERTIES.

Application No. 1907.
Decided June 14, 1921.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 2898, dated November 13, 1915, as amended, authorized Sacramento Gas Company to issue and sell $400,000 of its first mortgage bonds, subject to the condition, among others, that at least $57,470 of the proceeds from the sale of such bonds be expended only upon further orders of the Railroad Commission; and

Whereas, the Railroad Commission by Decisions No. 4383, No. 4782 and No. 6304 in Application No. 2990, authorized Sacramento Gas Company to invest $24,000 of said $57,470 in United States government bonds and notes and to deposit such bonds and notes so purchased with Anglo-California Trust Company, trustee, and to add the interest thereon to the unexpended balance of the proceeds from the sale of said $400,000 of bonds; and

Whereas, Sacramento Gas Company reports that there is on deposit with the trustee an unexpended balance of such proceeds of $4,880.42, including accumulated interest, and $24,000 invested in United States government securities, a total of $28,880.42; and

Whereas, applicant reports, in statements filed with the Commission on June 4, 1921, that it has expended, from income, from June 30, 1917, to April 30, 1921, for capital additions, the sum of $37,878.04, after deducting credits and retirements, which has not been reimbursed by the issue of bonds; and

Whereas, applicant, because of such expenditures, asks permission to use the $28,880.42 to finance, in part, the cost of such capital additions; and

It appearing to the Railroad Commission that applicant's request should be granted; now, therefore;

It is hereby ordered, that Sacramento Gas Company be and it is hereby authorized to use the $28,880.42 now on deposit with the trustee and consisting of $4,880.42 of proceeds from the sale of bonds authorized by said Decision No. 2898, dated November 13, 1915, plus accumulated interest, and $24,000 of such proceeds invested in United States govern-

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ment securities, to reimburse its treasury for moneys expended from income for additions and betterments described in statements filed with the Commission on June 4, 1921.

It is hereby further ordered, that the orders in Decision No. 2898, dated November 13, 1915, as amended, and in decisions in Application No. 2990, shall remain in full force and effect, except as modified by this third supplemental order.

Dated at San Francisco, California, this fourteenth day of June, 1921.

DECISION NO. 9111.

IN THE MATTER OF THE APPLICATION OF BENICIA WATER COMPANY, A CORPORATION, FOR AN EMERGENCY RATE FOR WATER FURNISHED TO THE CITY OF BENICIA AND ITS INHABITANTS.

Application No. 5570.

Decided June 18, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER FOR TERMINATION OF EMERGENCY RATE.

Whereas, the Commission by its prior order herein made the twenty-seventh day of May, 1920, Decision No. 7637, fixed and prescribed the rates to be thereafter charged and collected by the applicant as an emergency rate, which the Commission found to be reasonable during an emergency due to shortage of water supply, and which rates were required by said order to be continued in effect until the further order of this Commission; and

Whereas, pursuant to said prior order of the Commission herein applicant has caused to be filed with this Commission monthly financial statements showing revenues received from the sale of water each month under said emergency rates, together with a statement showing the amount of revenue which the company would have received from the sale of water under the regular rates of the company; and it appearing therefrom that the amount of revenue received by the applicant under said emergency rates in excess of the amount which applicant would have realized under the rates theretofore in effect has been sufficient to defray the excess costs of service due to said emergency, and that the necessity for said emergency rates no longer exists; now, therefore, good cause appearing,

It is hereby ordered, that upon the termination of the operating month of June, 1921, the emergency rates fixed and prescribed by the Commission's prior order herein, Decision No. 7637, shall be suspended and

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thereafter applicant shall charge and collect its regular rates in accordance with the schedules filed by it with this Commission on May 1, 1914, and June 11, 1915.

The effective date of this order is hereby fixed and designated as the first day of July, 1921.

Dated at San Francisco, California, this eighteenth day of June, 1921.

DECISION No. 9121.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO CREATE A BONDED INDEBTEDNESS IN THE AUTHORIZED SUM OF FIFTY MILLION DOLLARS, TO ENTER INTO A MORTGAGE OR DEED OF TRUST FOR THE PURPOSE OF SECURING THE SAME, TO ISSUE AND SELL BONDS OF SAID INDEBTEDNESS, WHEN CREATED, OF THE PAR VALUE OF TWO MILLION, SEVEN HUNDRED FIRTY THOUSAND DOLLARS, AND TO ISSUE AND SELL PREFERRED STOCK OF THE PAR VALUE OF THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS; AND FURTHER IN THE MATTER OF THE APPLICATION OF SAN DIEGO GAS AND ELECTRIC COMPANY TO ISSUE STOCK OF THE PAR VALUE OF THREE HUNDRED DOLLARS, AND TO EXECUTE THE ABOVE MENTIONED MORTGAGE OR DEED OF TRUST JOINTLY WITH SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY, AND TO EXECUTE A LEASE OF ALL ITS PROPERTY TO SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY.

Application No. 6744.

Decided June 20, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 8956, dated May 9, 1921, authorized San Diego Consolidated Gas and Electric Company to issue and sell $2,750,000 of bonds, subject, among others, to the conditions that none of the bonds be delivered until the Railroad Commission has authorized the execution of a mortgage or deed of trust securing the payment of the bonds and that none of the proceeds be expended except for such purposes as the Railroad Commission may authorize; and

Whereas, applicants in their supplemental application, filed May 23, 1921, ask permission to execute a mortgage or deed of trust substantially in the same form as that filed in this proceeding and marked Exhibit No. "1" supplemental; and

Whereas, San Diego Gas and Electric Company asks authority to lease its properties to the San Diego Consolidated Gas and Electric Company and San Diego Consolidated Gas and Electric Company ask permission

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to use $827,500 of the proceeds from the sale of bonds, the issue of which the Commission authorized in Decision No. 8956, dated May 9, 1921, to redeem debentures and use $556,079.51 to reimburse its treasury and finance construction expenditures incurred to March 31, 1921; and

The Commission being of the opinion that applicants' request should be granted;

It is hereby ordered, that San Diego Consolidated Gas and Electric Company and San Diego Gas and Electric Company be and they are hereby authorized to execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed in this proceeding on May 23, 1921, and marked Exhibit No. "1" supplemental; provided—

That the authority herein granted to execute a mortgage or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which such mortgage or deed of trust may be subject.

It is hereby further ordered, that San Diego Gas and Electric Company and San Diego Consolidated Gas and Electric Company be and they are hereby authorized to execute a lease substantially in the same form as the lease attached to the first supplemental petition filed in the above entitled matter and marked applicant's Exhibit No. "2."

It is hereby further ordered, that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to use $827,500 of the proceeds obtained from the sale of bonds, the issue of which is authorized by Decision No. 8956, dated May 9, 1921, to pay debentures which have been called for payment or for the purpose of paying obligations incurred to redeem the debentures, and to use $556,079.51 of the proceeds from the sale of said bonds to finance construction expenditures not otherwise capitalized and made by San Diego Consolidated Gas and Electric Company to and including March 31, 1921, all as more particularly set forth in this application.

It is hereby further ordered, that the order in Decision No. 8956, dated May 9, 1921, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this twentieth day of June, 1921.

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DECISION No. 9122.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE AND SELL ONE HUNDRED THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 6426.

Decided June 21, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 8579, dated January 24, 1921, authorized Southern California Edison Company to issue and sell, at $90 per share, 100,000 shares ($10,000,000) of its common capital stock; and

Whereas, the Railroad Commission, by its sixth supplemental order (Decision No. 8999) in Application No. 5312, authorized applicant to place the proceeds derived from the sale of stock, authorized to be issued and sold by orders in Applications No. 2743, No. 4790 and No. 5312, in the same fund with those derived from the sale of stock under said Decision No. 8579 and to expend not exceeding $6,099,260.69 of the money paid into such fund to finance in part construction expenditures made prior to December 1, 1920; and

Whereas, applicant, in its first supplemental application filed in the above entitled matter, reports that from December 1, 1920 to April 30, 1921, it has expended on capital account the sum of $5,058,860.56; and

Whereas, applicant asks permission to use $5,058,860.56 of the proceeds obtained or to be obtained from the sale of stock authorized by decisions in Applications No. 2743, No. 4790, No. 5312 and in this proceeding, to reimburse itself for such expenditure; and

It appearing to the Commission that applicant's request should be granted and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income; now, therefore;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to use not exceeding $5,058,860.56 of the proceeds from the sale of stock authorized by decisions in Applications No. 2743, No. 4790, No. 5312 and No. 6426, to finance the cost of the plant extensions, additions and betterments referred to in the first supplemental application in the above entitled matter.

It is hereby further ordered, that the order in Decision No. 8579, dated January 24, 1921, and in Decision No. 8999, dated May 21, 1921,

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shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-first day of June, 1921.

DECISION NO. 9124.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, AND MOUNT SHASTA POWER CORPORATION, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING THE EXECUTION OF A MORTGAGE AND THE ISSUANCE OF BONDS.

Second Supplemental Application No. 6387.

Decided June 21, 1921.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas, Pacific Gas and Electric Company reports that it has sold at 93.5 per cent of their face value plus accrued interest the $10,000,000 of first and refunding mortgage 7 per cent twenty-year bonds authorized to be issued by Decision No. 8446, dated December 20, 1920, as amended, and has received from such sale the sum of $9,350,000 and the further sum of $88,479.24 as accrued interest; and

Whereas, the Railroad Commission by Decision No. 8898, dated April 26, 1921, authorized Pacific Gas and Electric Company to use the $88,479.24 obtained from the sale of its bonds and representing accrued interest on said bonds, to pay part of the first semiannual installment of interest on said bonds, and further authorized the use of $2,211,033.69 of the said $9,350,000 to reimburse the Pacific Gas and Electric Company on account of advances made to Mount Shasta Power Corporation and by the latter expended from April 30, 1917, to and including December 31, 1920, for the acquisition of lands, rights-of-way and other property and for the construction of hydroelectric plants, electric transmission lines and works necessary for use in connection therewith, all as more particularly set forth in said Decision No. 8898, dated April 26, 1921; and

Whereas, applicants through the Mount Shasta Power Corporation are proceeding with their Pit River development and the construction of hydroelectric plants in connection with such development; and

Whereas, Pacific Gas and Electric Company and Mount Shasta Power Corporation in Exhibit "C," attached to the second supplemental petition filed in the above entitled matter, report the unexpended

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balances of the "General Manager's Authorizations" in connection with the Pit River development at $13,656,012.34, which authorizations have been examined by the engineering department of the Commission and are believed to be reasonable; and

Whereas, Pacific Gas and Electric Company in Exhibit "C" and Exhibit "D" filed in Application No. 6585 reports estimated expenditures of $6,702,113.83 (no part of which are included in the $13,656,012.34 mentioned in the preceding paragraph), of which amount, assuming all to be a proper charge to capital account, the Commission has heretofore in Decision No. 8802, dated March 28, 1921, authorized $4,735,337.74 to be financed through the issue of stock, leaving $1,966,776.09, against which the Commission has not authorized the issue of any stock and bonds; and

Whereas, applicants ask permission to use the remaining proceeds, $7,138,966.31, from the sale of the $10,000,000 of bonds to finance permanently in part through reimbursement or by direct payment the estimated expenditures, $13,656,012.34, reported in Exhibit "C" attached to second supplemental petition in Application No. 6387, and $1,966,776.09 of the estimated expenditures reported in Exhibits "C" and "D" filed in Application No. 6585;

And the Commission being of the opinion that applicants' request should be granted subject to the conditions of this order; now, therefore;

It is hereby ordered, that the order in Decision No. 8446, dated December 30, 1920, as amended, be and it is hereby modified so as to permit the use of $7,138,966.31 of the proceeds obtained from the sale of the $10,000,000 of first and refunding mortgage 7 per cent twenty-year bonds, the issue of which is authorized by said decision, to reimburse Pacific Gas and Electric Company on account of advances to Mount Shasta Power Corporation and expended since December 31, 1920, or hereafter to be expended by said Mount Shasta Power Corporation for the acquisition of lands, rights of way and other property and for the construction of hydroelectric power plants, electric transmission lines and works necessary for use in connection therewith pursuant to and in accordance with the "General Manager's Authorizations" listed and described in Exhibit "C" attached to the second supplemental petition in the above entitled matter; and permit Pacific Gas and Electric Company to pay the cost of acquiring and constructing additions, betterments and improvements described in the "General Manager's Authorizations" listed and described in the statements marked Exhibit "C" filed in Application No. 6585 and additions, betterments and improvements described in Exhibit "D" filed in Application No. 6585;

Provided, that said $7,138,966.31 be used to finance permanently only the cost of such properties, plants and appurtenances as are properly

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chargeable to capital accounts as defined in the classifications of accounts prescribed and adopted by the Railroad Commission.

It is hereby further ordered, that the order in Decision No. 8448, dated December 20, 1920, as amended, and the order in Decision No. 8802, dated March 28, 1921, shall remain in full force and effect, except as modified by this fourth supplemental order.

Dated at San Francisco, California, this twenty-first day of June, 1921.

DECISION NO. 9125.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION FIXING FAIR AND REASONABLE RATES FOR GAS SUPPLIED TO ITS CONSUMERS.

Application No. 6108.

Decided June 21, 1921.

LEGAL TECHNICALITIES.—Urging to prevent full consideration and carrying out of justice, not looked upon with favor.

RATE OF RETURN—TAXES.—From a strictly legal standpoint state taxes to be included in the estimate of costs might fairly be 7½ per cent of the preceding year's revenue, less uncollectible bills. This amount should from a practical standpoint be increased to equal 7½ per cent of the revenue which would have been received from the business of that year at the increased rates.

RATE OF RETURN—SPECIAL COMPENSATION.—Applicant not entitled to special compensation for favorable oil contract, as company is expected to use good business judgment.

RATE OF RETURN—REIMBURSEMENT.—Applicant allowed reimbursement for increase in price of oil from date of filing application. This deficit since September 11, 1920, amounts to $192,830.

RATE OF RETURN.—Differential in cost of gas and oil established at 2 to 3½ cents per M cubic feet of gas to every 10 cents per barrel variation in cost of oil.

C. P. Cutler, for Applicant.

John J. Dailey, for City and County of San Francisco.

Archer Bowden, for City of San Jose.

C. K. Kirkbride, for City of San Mateo.

W. E. Simpson, for City of Fresno.

Harry E. Brown, for City of Sacramento.

C. W. Byrnes, for City of San Rafael.

Leon P. Gray, for City of Oakland.

Frank V. Cornish, for City of Berkeley.

BY THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

The cities of San Francisco, Oakland, Fresno, Sacramento, San Jose, Berkeley, Alameda, Richmond, Chico, Petaluma, Vallejo, Piedmont, Los Gatos, San Leandro, Oroville, Napa, San Mateo, El Cerrito and Emeryville have filed petitions for rehearing, alleging certain errors

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in this Commission's Decision No. 8813 in the above entitled matter rendered March 31, 1921. Petitioners allege, first, that Application No. 6108 should not have been considered, as it dealt largely with questions of errors claimed by the company to have been made by the Commission in its previous Decision No. 7877 in Applications Nos. 5275 and 5278, and that, therefore, Pacific Gas and Electric Company should have filed a petition for rehearing if it desired these matters reconsidered; second, that it does not appear to petitioners that in Decision No. 8813 any consideration was given to the relation of revenue and operating costs as applying to the various districts served; third, that it appears to petitioners that in estimating the basis of the rates fixed the Commission had estimated gross revenue for 1920 and operating expenses for 1921, and that the Commission's decision is erroneous and not based on proper conclusions drawn from the evidence submitted; fourth, that in determining whether the company will earn a reasonable return for 1921 the gross revenue and operating expenses for that year should be considered. The cities of Oakland and San Francisco further allege that Decision No. 8813 discriminates against consumers in those cities in that the factors considered as causing a reduction in the return to the company do not in their opinion increase the cost per thousand cubic feet in the same degree as other districts served. Petitioners request that the effective date of Decision No. 8813 be suspended and set aside and that a rehearing be had. The Commission, under date of April 11, 1921, ordered that the effective date of said decision be extended for the period of the pendency of the application for rehearing.

Hearing upon the petition for rehearing was held before the Commission en banc on April 25, 1921, at which time argument was submitted by petitioners for rehearing relative to the justification of their request and the matter relative to the question of a rehearing has been submitted.

The first reason urged by petitioners for rehearing, that Pacific Gas and Electric Company should have filed petition for rehearing in Applications Nos. 5275 and 5278, Decision No. 7787, rendered by this Commission in July, 1920, was originally urged in connection with Application No. 6108 and fully considered by the Commission in Decision No. 8813, and it does not appear necessary to further consider this matter except to point out that the Railroad Commission's aim is to render justice to all concerned and that the urging of a legal technicality to prevent the full consideration of the matter and the carrying out of justice is not looked upon with favor by this Commission.

Relative to other points urged in the filed petitions for rehearing, it appears from the discussion at the hearing in this matter and from a

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further consideration of the decision by the petitioners, that the points urged by the petitioners as to whether consideration was given to the revenue and costs in the different districts, and that the basis of estimate by the Commission and the method used were not justified by the facts, were apparently based upon a lack of information and careful study of the decision before the petition was filed. We see no reason for the granting of a rehearing or reconsideration of the matter on these grounds.

At the hearing in the petition for rehearing it was further urged that the Commission had erred in the method used in computing state taxes to be included in the estimate of expense. This point we believe justifies careful consideration and is the only point, in our opinion, raised which would justify the petition.

The present method of state taxation applicable to gas corporations, such as Pacific Gas and Electric Company, is in legal theory a property tax, but the measure of the tax is computed on a gross income basis. The state tax, which becomes a lien upon the company's property in March, 1921, is computed at 7½ per cent of the gross revenue received from the business for 1920. It is therefore apparent that, barring a modification of the rate of taxation downward, a complete doing away with the present basis of taxation, or the discontinuance of the business as a public utility, the gross revenue in one year places an obligation upon the company to pay 7½ per cent of that amount to the state during the succeeding fiscal year.

Where a company's revenue continually increases, as applicant's has done, computations will show that the amount due in July of each year is less than the amount which would be estimated on the accrual basis heretofore used for the year in question, so that an amount will accumulate in any such reserve equivalent to the tax rate times the growth in gross revenue. In case of a reducing gross revenue, the reduced revenue must, under the proposed plan of petitioners, bear a heavier burden, and, in general, under such conditions the greater tax may become serious from the standpoint of the utilities.

We can not agree with petitioners that the installments actually paid in any calendar year represent the correct amount to be allowed in determining rates. In view of the fact that in determining working cash capital of a utility taxes are not included and should therefore be accrued before being paid, and, further, that the taxes due in July become a lien on the property in March of the same year, the minimum tax allowance would be the amount which becomes a lien on the company's property in March of each year. From a strictly legal standpoint we believe that the state taxes to be included in the estimate of costs in Decision No. 8813 might fairly be 7½ per cent of the pre-

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ceding year's revenue, less uncollectible bills. This amount should, from a practical standpoint, be increased to equal 7½ per cent of the revenue which would have been received from the business of that year at the increased rates as it is apparent in fixing rates for the future that an increase in rates continued will in the second year increase the unit amount of taxes.

The estimate of state taxes in Table No. III in Decision No. 8813 should, on the above basis, be reduced $79,000 and the estimate of Federal taxes increased $7,900, making a net reduction of $61,100.

Since rendering Decision No. 8813, and also since the submission of the argument for rehearing, there occurred on May 13, 1921, a reduction of 25 cents per barrel in the cost of oil. An order reopening the proceeding has been made, a hearing held and evidence introduced on this point. Petitioners urge that this reduction should be taken into consideration. Pacific Gas and Electric Company urges that due to the delay in this proceeding and in general the unavoidable delay in getting relief in the case of increased costs of operation in the form of higher rates, it has had to absorb over $400,000 during the past year in increased oil cost; that during the past several years it has purchased oil at below the market price, all of which saving has gone to the public; that in addition to the fact that in 1920 it failed to earn the return found reasonable by approximately $700,000 the consumers received gas based on a cost of oil 15 cents per barrel below the market price or totaling $212,000, and that even if the increased rates should be made effective for the last seven months of 1921, it would still earn for the year 1921, less than the Commission has found a reasonable return. It is urged that the rates to be put in effect and continued even with a reduced price of oil until the deficits of 1918 to 1921 are recouped.

It is urged by J. J. Dailey, representing the City and County of San Francisco, that no consideration should be given in this proceeding to deficits from any source incurred prior to the Commission's Decision No. 7877, dated July 14, 1920, as the question of possible reimbursement for such deficits was a subject before the Commission in that proceeding and was therein passed upon. It is suggested by Mr. Dailey, however, that it would be only fair to applicant to give consideration to compensating applicant for the increase in price of oil effective since July, 1920, which was not considered in the rates fixed in Decision No. 7877. This increase amounted to 12 cents per barrel and, for the period that it was in effect, totaled approximately $236,000.

The cost of oil is a large part of the cost of gas service, representing approximately 40 per cent of the total charge. It is practically impossible to forecast what the price of oil will be. Sudden changes in oil prices may so affect the earnings of the utility as to require

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immediate change in rates or result in serious loss to the company or in unfair rates to the consumer. Under the method heretofore followed, delay resulting from necessary hearings has caused loss of earnings to the gas companies and has in certain instances affected their credit. The future price of oil apparently is more problematical than at any time in the past. The last change was a reduction of 25 cents per barrel and it is possible that either further reductions may be made or increases again put in effect. We believe it advisable to establish if possible a procedure whereby changes in rates with the change in the price of oil may be made without the delay necessary with formal hearings. Such a method is urged by certain of the utilities and has been followed by Commissions in other states. A study of the Public Utilities Act relative to this matter leads to the conclusion that a procedure whereby the rates might be fixed so as to vary with the price of oil will be in accordance with the Act.

Applicant urges that it has failed to earn the return found reasonable by the Commission due to the lag between the increase in price of oil and the time rates have been fixed and that the company should have a chance, with possible reducing costs, to make up the deficits heretofore incurred. If the method of varying the rates immediately upon the change in the price of oil is put into effect it is apparent that applicant can not make up, through the lag in the reducing of rates, the deficits below a reasonable return heretofore incurred due to increases in oil costs. In view of this fact it appears just and equitable to allow applicant to collect during the coming year sufficient to reimburse it for the increase in price of oil since July, 1920, not reflected in the rates now in effect.

We are not convinced that applicant is entitled to more than a fair return because it is purchasing oil below the market price. A company the size of applicant is expected, if it receives a reasonable return, to exercise good business judgment, and the present favorable contract would not we believe justify special compensation.

We can not agree with Mr. Dailey's suggestion of reimbursement for increase of oil costs since July, 1920, not accounted for in existing rates, amounting to $236,500, nor with applicant's request for reimbursement for deficits below the reasonable return for 1918 to 1921 inclusive. It is our opinion that applicant is reasonably entitled to reimbursement for the deficit resulting from increase in price paid for oil of 12 cents per barrel from and after September 11, 1920, being the date of filing this application. This deficit since September 11, 1920, amounts to approximately $192,830.

Applicant will be authorized herein to collect, commencing with the effective date of this order, the sum of 2 cents per thousand cubic feet

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under Schedules Nos. 1, 3, 4, 5, 6, 7, 8 and 9 for such time thereafter as will be necessary for the collection of a total sum of $192,830, this to represent reimbursement for the cost of oil not heretofore covered as above specified. Schedule No. 2 already includes the necessary provision whereby the rate is automatically varied with changes in the price of oil.

Analysis of the operations of applicant's eighteen gas plants shows that the differential in the cost of gas per thousand sold varies from approximately 2 cents per 10 cents variation in the price of oil in the San Francisco and Alameda districts to 3¼ cents in one of the smallest communities, the average variation in the cities of Sacramento and Fresno being approximately 2.4 cents, and for the districts listed under Schedule No. 8, 3.0 cents. Schedule No. 2 has heretofore contained an oil clause by which the rate was based on the price of oil from time to time. It is impracticable to make a different rate of change per change in price of oil in the several communities listed under a given schedule. A uniform rate of variation under each schedule which will approximate the average change per given 10 cents change in price of oil will be made. We find the following changes in the price of gas per 10 cents change in the price of oil to be reasonable:

Change in Cost of Gas per 1000 Cubic Feet Sold with 10 Cents per Barrel Change in Cost of Oil.

Schedule G-1.	San Francisco-Alameda districts	2	cents per M cubic feet sold
Schedule G-2.	City of Palo Alto	2	cents per M cubic feet sold
Schedule G-3.	Fresno and Sacramento districts	2.4	cents per M cubic feet sold
Schedule G-4.	Peninsula district and Alameda rural district	2.2	cents per M cubic feet sold
Schedule G-5.	Vallejo	2.5	cents per M cubic feet sold
Schedule G-6.	Marin district	2.5	cents per M cubic feet sold
Schedule G-7.	Cities of Chico, Marysville, Yuba City, Napa, Santa Rosa, Petaluma and adjacent territory	2.8	cents per M cubic feet sold
Schedule G-8.	Cities of Colusa, Oroville, Woodland, Davis, Nevada City, Grass Valley, Redding, Red Bluff, Willows, Los Gatos and adjacent territory	3	cents per M cubic feet sold
Schedule G-9.	City of San Jose and adjacent territory	2.2	cents per M cubic feet sold

The reduction in the price of oil of 25 cents per barrel to applicant is equivalent to an average reduction in the cost of gas of 5.1 cents per 1000 cubic feet sold, and when modified to account for the resultant reduction in the tax estimate will equal 5.55 cents per 1000 cubic feet sold, or a total on the annual basis used in Decision No. 8813 of $595,000 of the total increase authorized of $840,000 per annum, or 7.8 cents per 1000 cubic feet.

The following sets forth a revision of Table No. III in Decision No. 8813 based on the present cost of oil to applicant and state taxes revised as heretofore set forth. Federal income tax is estimated to be

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the amount which would be paid on the income heretofore found reasonable:

Pacific Gas and Electric Company—Gas Department.

Estimates of Revenue and Expenses Under Existing Rates—1920 Basis.

Gas sales, M cubic feet	$10,775,000
Gross revenue	11,670,000
Expenses:	
Maintenance	700,000
Oil	3,850,000
Other expense, including electric energy	2,700,000
General administration	309,000
Taxes	930,000
Fire and casualty insurance	47,050
Uncollectible bills	55,000
Total expense	$8,571,050
Balance for depreciation and return	$3,098,950
Comparable amount found to be reasonable in Decisions Nos. 7787 and 8815	$3,238,536
Deficit below amount found reasonable	$139,586

The reduction in the price of oil of 25 cents per barrel makes necessary a modification in the schedules heretofore fixed in Decision No. 8813. A segregation is made of the smaller communities in view of the fact that under the higher price of oil heretofore in effect it was not possible in these districts to allow a reasonable return upon the investment. With the reduction in oil price, however, and the change in the method of applying rates to account for the variation in the price of oil, the changes herein made, which will allow a somewhat greater return in the smaller communities, are found just and reasonable. In the order herein the schedules as set forth are based upon prices of oil as in effect at the various plants on June 1, 1921.

San Francisco	$1 68 per barrel
Alameda County	1 68 per barrel
Sacramento and Fresno	1 97 per barrel
Vallejo	1 76 per barrel
San Rafael	1 78 per barrel
Chico	2 21 per barrel
Marysville	2 08 per barrel
Napa	1 78 per barrel
Santa Rosa	1 97 per barrel
Colusa	2 29 per barrel
Oroville	2 13 per barrel
Nevada City	2 91 per barrel
Redding	2 34 per barrel
Red Bluff	2 34 per barrel
Willows	2 29 per barrel
Los Gatos	2 23 per barrel
San Jose	2 08 per barrel

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The variable charges as set forth in the schedules are to apply in case the price of oil increases above or decreases below the prices above.

ORDER.

The cities of San Francisco, Oakland, Fresno, Sacramento, San Jose, Berkeley, Alameda, Richmond, Chico, Petaluma, Vallejo, Piedmont, Los Gatos, San Leandro, Oroville, Napa, San Mateo, El Cerrito and Emeryville having applied for a rehearing in the above entitled matter, hearing having been held for the submission of argument on the question of rehearing and further hearing having been held for the introduction of evidence relative to the change in the price of oil, and the matter now being submitted and ready for decision:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in Decision No. 8813 should be modified to conform with the schedules herein set forth; that the rates herein set forth are just and reasonable rates to be charged by Pacific Gas and Electric Company.

It hereby further finds as a fact that it is just and reasonable that Pacific Gas and Electric Company collect from its consumers in addition to the rate schedules herein set forth, except Schedule No. 2, the sum of 2 cents per 1000 cubic feet until such time as it has been reimbursed by the amount of $192,830.

Basing its order on the foregoing findings of fact and on the other findings of fact contained in the opinion which precedes this order and the other findings of fact set forth in Decision No. 8813 as modified herein;

It is hereby ordered, that Pacific Gas and Electric Company be and the same is hereby authorized to charge and collect for gas service rendered in the various communities served, based upon all regular meter readings taken on and after the first day of August, 1921, the following schedules:

SCHEDULE G-1.

Character of service.

Gas of an average heating value of 550 British thermal units per cubic foot will be supplied under this schedule for light, heat and power service.

Territory.

This rate applies in the city and county of San Francisco, and to the following localities within the Alameda County district: Alameda, Albany, Berkeley, Emeryville, Oakland, Piedmont and contiguous suburban territory.

Rate. On the basis of monthly consumption of gas per meter.

$1 07	per 1000 cubic feet	for the first 10,000 cubic feet
96	per 1000 cubic feet	for the next 20,000 cubic feet
90	per 1000 cubic feet	for the next 40,000 cubic feet
85	per 1000 cubic feet	for the next 80,000 cubic feet
80	per 1000 cubic feet	for the next 150,000 cubic feet
75	per 1000 cubic feet	for all over 300,000 cubic feet

The above rates are subject to increase or decrease on the basis of 2 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the price paid for oil effective on June 1, 1921 upon approval

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of the Railroad Commission of the State of California. Change to be to the nearest one cent.

Minimum charge.

Minimum monthly charge for domestic service for flats and apartments where four (4) or more meters are continuously served in one location and on one service, 70 cents per meter.

Minimum monthly charge for domestic and commercial service other than the above, 80 cents per meter.

SCHEDULE G-2.

Character of service.

On the basis of monthly consumption of gas as measured at the point of delivery to the city of Palo Alto at or near the compression tanks of the city. Gas will be of approximately 530 British thermal units per cubic foot.

Territory.

This rate applies only to gas sold at wholesale to the city of Palo Alto.

Rate.

$0 62 per 1000 cubic feet for the first 5,000,000 cubic feet per month.
40 per 1000 cubic feet for all over 5,000,000 cubic feet per month, plus 2 cents per 1000 cubic feet for all gas consumed for each 10 cents per barrel that the average price of oil at the Potrero plant of the company exceeds $1 per barrel.

Terms and conditions.

A cubic foot of gas is hereby defined as that volume of gas occupying the space of one cubic foot at a temperature of sixty (60) degrees Fahrenheit, and at a pressure of four inches of water above atmospheric pressure, the atmospheric pressure being taken at the pressure equivalent to a thirty-inch column of mercury.

SCHEDULE G-3.

Character of service.

Gas of an average heating value of 570 British thermal units per cubic foot will be applied under this schedule for light, heat and power service.

Territory.

This rate applies to the following localities: City of Sacramento and suburbs, city of Fresno and suburbs.

Rate. On the basis of monthly consumption per meter.

$0 80 for the first 500 cubic feet or less
1 32 per 1000 cubic feet for the next 4,500 cubic feet
1 15 per 1000 cubic feet for the next 5,000 cubic feet
1 00 for 1000 cubic feet for the next 10,000 cubic feet
90 for 1000 cubic feet for all over 20,000 cubic feet

The above rates are subject to increase or decrease on the basis of 2.4 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the price paid for oil effective on June 1, 1921 upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

SCHEDULE G-4.

Character of service.

Gas of an average heating value of approximately 535 British thermal units per cubic foot will be supplied under this schedule for light, heat and power service.

Territory.

This rate applies to the following localities:

(1) Within the Alameda County district, Hayward, San Leandro, Richmond and contiguous suburban territory.

(2) Within the Redwood district, Daly City, Burlingame, Hillsborough, Redwood City, San Mateo, South San Francisco and contiguous suburban territory.

This rate does not apply to gas served in the city of Palo Alto for redistribution.

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Rate. On the basis of monthly consumption per meter.

$0 80 per the first 500 cubic feet or less
1 35 per 1000 cubic feet for the next 4,500 cubic feet
1 20 per 1000 cubic feet for the next 5,000 cubic feet
1 05 per 1000 cubic feet for the next 10,000 cubic feet
95 per 1000 cubic feet for the next 20,000 cubic feet
90 per 1000 cubic feet for all over 40,000 cubic feet

The above rates are subject to increase or decrease on the basis of 2.2 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the price paid for oil effective on June 1, 1921 upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

SCHEDULE G-5.

Character of service.

Gas of an average heating value of 570 British thermal units per cubic foot will be supplied under this schedule for light, heat and power service.

Territory.

This rate applies to the following localities: City of Vallejo and suburbs.

Rate. On the basis of monthly consumption per meter.

$0 80 for the first 400 cubic feet or less
1 55 per 1000 cubic feet for the next 4,600 cubic feet
1 20 per 1000 cubic feet for the next 5,000 cubic feet
1 00 per 1000 cubic feet for the next 10,000 cubic feet
90 per 1000 cubic feet for all over 20,000 cubic feet

The above rates are subject to increase or decrease on the basis of 2.5 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the price paid for oil effective on June 1, 1921 upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

SCHEDULE G-6.

Character of service.

Gas of an average heating value of 570 British thermal units per cubic foot will be supplied under this schedule for light, heat and power service.

Territory.

This rate applies to the following localities within Marin district: San Rafael, San Anselmo, Fairfax, Ross, Kentfield, Larkspur, San Quentin and contiguous suburban territory.

Rate. On the basis of monthly consumption per meter.

$0 80 for the first 400 cubic feet or less
1 80 per 1000 cubic feet for the next 4,600 cubic feet
1 30 per 1000 cubic feet for the next 5,000 cubic feet
1 10 per 1000 cubic feet for the next 10,000 cubic feet
95 per 1000 cubic feet for all over 20,000 cubic feet

The above rates are subject to increase or decrease on the basis of 2.5 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the price paid for oil effective on June 1, 1921 upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

SCHEDULE G-7.

Character of service.

Gas of an average heating value of 570 British thermal units per cubic foot will be supplied under this schedule for light, heat and power service.

Territory.

This rate applies in the following localities: Chico district—city of Chico and suburbs; city of Marysville, Yuba City and suburbs. Napa district—city of Napa and suburbs. Petaluma district—city of Petaluma and suburbs. Santa Rosa district—Santa Rosa, Sebastopol and contiguous suburban territory.

Rate. On the basis of monthly consumption per meter.

$1 00 for the first 500 cubic feet or less
1 80 per 1000 cubic feet for the next 4,500 cubic feet
1 40 per 1000 cubic feet for the next 5,000 cubic feet
1 15 per 1000 cubic feet for the next 10,000 cubic feet
1 00 per 1000 cubic feet for all over 20,000 cubic feet

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The above rates are subject to increase or decrease on the basis of 2.8 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the price paid for oil effective on June 1, 1921 upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

SCHEDULE G-8.

Character of service.

Gas of an average heating value of 570 British thermal units per cubic foot will be supplied under this schedule for light, heat and power service.

Territory.

This rate applies in the following localities: City of Colusa and suburbs, city of Oroville, Orovista and suburbs. Nevada district—Grass Valley, Nevada City and suburbs. Northern district—Redding and suburbs, Red Bluff and suburbs, Willows and suburbs. City of Los Gatos and suburbs. City of Woodland and suburbs. City of Davis.

Rate. On the basis of monthly consumption per meter.

$1 00 for the first 500 cubic feet or less
1 85 per 1000 cubic feet for the next 4,500 cubic feet
1 50 per 1000 cubic feet for the next 5,000 cubic feet
1 20 per 1000 cubic feet for the next 10,000 cubic feet
1 10 per 1000 cubic feet for all over 20,000 cubic feet

The above rates are subject to increase or decrease on the basis of 3 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the price paid for oil effective on June 1, 1921 upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

SCHEDULE G-9.

Character of service.

Gas of an average heating value of approximately 540 British thermal units per cubic foot will be supplied under this schedule for light, heat and power service.

Territory.

This rate applies in the city of San Jose and suburbs.

Rate. On the basis of monthly consumption per meter.

$0 80 for the first 500 cubic feet or less
1 30 per 1000 cubic feet for the next 4,500 cubic feet
1 10 per 1000 cubic feet for the next 5,000 cubic feet
1 00 per 1000 cubic feet for the next 10,000 cubic feet
90 per 1000 cubic feet for all over 20,000 cubic feet

The above rates are subject to increase or decrease on the basis of 2.2 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the price paid for oil effective on June 1, 1921 upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

It is hereby further ordered, that in case of a reduction in the price paid for oil, the Pacific Gas and Electric Company shall file within ten days thereafter an affidavit setting forth the new price paid for oil and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth.

It is hereby further ordered, that should at any time an increase in price paid for oil occur, applicant may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increase in rates as determined under the schedules herein set forth.

It is hereby further ordered, that Pacific Gas and Electric Company be and the same is hereby authorized to charge and collect, in addition

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to the schedules of rates herein set forth, a charge of 2 cents per thousand cubic feet for all gas sold based upon meter readings taken on and after the first day of August, 1921, until such time as it has collected thereunder the total sum of $192,830.

It is hereby further ordered, that Pacific Gas and Electric Company shall file with the Commission on or before August 1, 1921, the schedules or rates and charges herein set forth.

It is hereby further ordered, that Pacific Gas and Electric Company shall file with the Commission on or before September 20, 1921, and on or before the twentieth day of each month thereafter, a statement showing the total gas sales during the preceding calendar month as long as it is collecting the additional charge of 2 cents per 1000 cubic feet herein authorized.

It is hereby further ordered, that the petitions for rehearing filed by the cities of San Francisco, Oakland, Fresno, Sacramento, San Jose, Berkeley, Alameda, Richmond, Chico, Petaluma, Vallejo, Piedmont, Los Gatos, San Leandro, Oroville, Napa, San Mateo, El Cerrito and Emeryville be, and the same are, hereby denied.

Dated at San Francisco, California, this twenty-first day of June, 1921.

DECISION NO. 9127.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO INCREASE ITS RATES FOR ARTIFICIAL GAS SUPPLIED TO THE CITY OF SANTA BARBARA AND UNINCORPORATED COMMUNITY IN THE COUNTY OF SANTA BARBARA.

Supplemental Application No. 5234.

Decided June 21, 1921.

LeRoy M. Edwards, for Southern Counties Gas Company of California
W. P. Butcher, for the City of Santa Barbara.

BRUNDIGE, *Commissioner.*

OPINION.

Southern Counties Gas Company of California, hereinafter referred to as applicant, has asked for authority to increase its rates for artificial gas supplied in the city of Santa Barbara and the unincorporated community in Santa Barbara County served by it. It further requests that the rates for this service be established upon the basis of the cost of oil in such a manner that without the expense or delay of a formal hearing the rates may be increased or decreased as the cost of oil rises or falls. In support of its request applicant alleges that the present

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rates established in Decision No. 7483 were based upon the cost of oil at $2.22 per barrel; that due to a combined increase of freight charges and the price of oil the total cost of oil has been increased to $2.46 per barrel f.o.b. Santa Barbara; that this increase in the cost of oil will necessitate an increase in rate of 6.57 cents per M cubic feet of gas sold.

In its petition applicant sets forth a schedule of rates which it urges will be required under the conditions existing at the time the petition was filed.

This supplemental application was filed August 19, 1920. At that time the Joint Committee on Efficiency and Economy of Gas of the Railroad Commission of the State of California, who under the authority of the Railroad Commission has been conducting a series of tests at the gas plant in Santa Barbara, was contemplating a reduction of the heating value of the gas manufactured. This reduction in quality of gas was expected to effect a saving in the production costs sufficient to balance the increase in cost of oil mentioned by the company in its application. A hearing was not then held. Upon subsequent appeal of the company claiming that there were further increases in the cost of operation a hearing was held on March 28, 1921, and evidence taken. At this hearing applicant introduced a comprehensive exhibit, setting forth certain data and discussions pertinent to the matter of rates and urged further that it be allowed a rate of return based upon the cost of service shown in its exhibit and sufficient to amortize its accrued deficit over a reasonable period; that the recent increase in state taxes be included in calculating taxes, and that data relative to the cost of money as submitted in Application No. 6068 be considered in evidence and the rate of return based thereon.

It was further requested that the Commission in fixing the rates prescribe the heating value of the gas to be served if different from the existing standard.

The city introduced four exhibits relative to the present cost of gas, the nature of gas service, and petitions protesting against any increase in rates.

It was stipulated that the Commission's engineers would file a report of analysis of the company's exhibits within twenty days after the hearing; that the city of Santa Barbara should have thirty days to file a reply to the applicant's exhibits; that exhibits in Application No. 6068 and in previous proceedings in Application No. 5234 be considered as evidence in this proceeding as well as other data before the Commission relevant to this proceeding, and that briefs be filed by attorneys upon the legal questions involved in the matter of a rate based upon the cost of oil

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and subject to automatic modification with the fluctuations of the cost of oil. It was requested that a report be made to the Commission of service conditions found at the addresses of each complainant testifying at the hearing. Such reports and briefs have been filed. This proceeding is, therefore, now ready for decision.

The present rates were established by Decision No. 7483 in the original Application No. 5234 and became effective April 27, 1920. They were expected to yield a gross revenue of $1.44 per thousand, and provide, after depreciation, an 8 per cent return upon a rate base of $723,313.58. The estimates found reasonable for the year 1920 were an average of 5080 consumers with gas sales of 207,050 M cubic feet, and the cost of oil at $2.22 per barrel f.o.b. Santa Barbara.

The service rendered by the company during the past year was the subject of testimony of several consumers. The greater part of the unsatisfactory service was due to obnoxious fumes from gas resulting from excessive amount of sulphur in the gas and causing serious discomfort and inconvenience to consumers. This sulphur was in the form commonly spoken of as "organic sulphur," consisting of sulphur compounds which can not be readily removed from the gas. The gradual increase in the amount of these compounds in the gas was apparently due to the fact that the residuum oil which is used for gas manufacture had been subjected to greater distillation processes than formerly, or that the crude oil itself might actually have contained more sulphur. Studies are being made to find an economical method for the removal of "organic sulphur" from the gas, but for the present the only practical plan is to substitute for the gas making an oil of lower sulphur content.

To overcome the bad sulphur condition applicant has had to purchase oils of less sulphur content at a material increase in cost.

The rate base used in Decision No. 7283 was the historical reproduction cost of the operative properties as of December 31, 1919, to which was added an estimate of net additions and betterments for the first six months of 1920. The rate base to be used in this proceeding is the same historical reproduction cost as of December 31, 1919, to which has been added the actual net additions and betterments made during 1920 and an estimate of one-half of the amount that will be added in 1921. The total rate base and depreciation annuity used in this proceeding are shown in Table I.

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TABLE I.

Southern Counties Gas Company, Santa Barbara District: Summary of Historical Cost and Depreciation Annuity, 1921.

	Historical cost new	Annuity 6 per cent San Francisco basis
Organization and franchise	$670 00	
Land	7,385 77	
Production	267,237 00	$4,716 24
Transmission	9,220 16	250 00
Distribution	426,026 37	13,126 16
Working cash capital, materials and supplies	48,269 00	
Total rate base	$774,676 01	$19,117 18

The actual sendout and sales of gas for 1920 were 280,949 M cubic feet and 226,723 M cubic feet respectively. It has been estimated that the sendout for 1921 will be 295,680 M cubic feet and the sales 244,180 M cubic feet.

The estimated sales are based on the service of an average quality of gas of 540 B.t.u. per cubic foot as compared with the former standard of 570. Assistant Chief Engineer L. S. Ready of the Commission reports that during the coming year the average heat content of gas produced at the plant under the Committee's tests will be approximately that quality.

The following statement of expenses, revenue and net return under present rates as set forth in Table II, has been compiled after a careful study of the evidence submitted. In preparing the estimate of operating expenses, consideration has been given to reduction of wages at present in effect and also to the increased cost of oil. The price of oil obtaining at the time of filing this application was $2.46 per barrel. However, since that time applicant has been obliged to pay an increased price for oil of low sulphur content, which is required in order to overcome the serious trouble from obnoxious sulphur fumes which have previously existed. The estimated average cost of this quality of oil at the time of the hearing was $2.79 per barrel, but since the submission of this matter there has been a reduction in the price of 25 cents per barrel, which has been taken account of herein.

TABLE II.

Southern Counties Gas Company: Summary of Operating Statistics, Revenue and Expenses; Estimated for Year 1921 Under Present Rates—Santa Barbara District.

Cost of oil per barrel	$2 54
Gas sales—M cubic feet	244,280
Average revenue per M (present rate)	$1 4095
Gross revenue from gas sales	$344,292 00
Revenue—other	3,450 00
Total revenue	$347,744 00

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Production expense—oil	$153,797 00
Production expense—other	41,340 00
Transmission expense	3,700 00
Distribution expense	27,960 00
Commercial expense	18,645 00
General expense	16,787 00
State and franchise tax	24,693 00
Uncollectible accounts	695 00
Total operating expenses	$287,617 00
Depreciation	19,117 00
Total	$306,734 00
Net revenue	$41,010 00
Rate of return	5.29 per cent

The rates proposed in applicant's petition contemplated an average increase of 6.57 cents per thousand cubic feet. Since the filing of the application other factors have arisen which seriously affect the cost of service. The net additional increase in the cost of oil is 8 cents per barrel, which results in a further increase in the cost of gas of 2 cents per thousand cubic feet. State taxes have increased from 5.6 per cent to 7.5 per cent of the gross revenue, thereby further increasing the cost of gas by 2.5 cents, or a total increase for both oil and taxes of 4.5 cents per thousand cubic feet sold.

Applicant urges that it be granted a greater rate of return than 8 per cent owing to the higher cost of the money which it has invested in the property since the same was purchased. The cost of money invested during the past three years has been considerably in excess of that prior thereto. In view of this fact the Commission has found it reasonable in a number of cases to authorize a higher rate of return than the 8 per cent found reasonable prior to the war period. This has been justified especially in view of the necessity of continued extension of system by the utilities. On the basis of allowing applicant an 8 per cent return on the property invested prior to 1919 and 9 per cent upon additions since that date, I find that a reasonable return to applicant where good service is rendered should be 8¼ per cent.

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The following table shows the operating expenses, revenue and return upon which the rates herein established are calculated:

TABLE III.

Southern Counties Gas Company: Summary of Operating Statistics, Expenses and Revenue; Showing Rate per Thousand Cubic Feet Required; Estimated for Year 1921—Santa Barbara District.

Cost of oil per barrel	$2 54
Operating expenses	262,229 00
Taxes, state and franchise	26,699 00
Taxes, normal federal income	5,277 00
Uncollectible accounts	752 00
Total expenses	$292,957 00
Depreciation	19,117 00
Total operating charges	$312,074 00
Rate base, $774,676.04.	
Net revenue required for 8½ per cent return	63,911 00
Total gross revenue required	$375,985 00
Miscellaneous revenue	3,450 00
Revenue required from gas sales	$372,535 00
Estimated gas sales—M cubic feet, 244,280.	
Average rate required per M cubic feet, $1.526.	

Applicant has requested a rate sufficient to amortize the accrued deficit which it has incurred since its application was filed. It has also asked that rates be fixed in such a manner as to vary with the price of oil, thus eliminating the necessity of hearings in case of further change in the price of oil and the resulting delay in increase or decrease in rates necessarily following with the practice of the Commission heretofore in effect.

I can not agree with applicant that it should be reimbursed for the deficit below the return herein found reasonable which was incurred since the application was filed in August, 1920. In view of the service rendered by applicant, due to the sulphur conditions existing during the past winter and applicant's attitude relative to compliance with the Commission's service order as indicated by its attorney in this proceeding, I must conclude that no reimbursement should be authorized.

The price paid for oil by applicant and other gas utilities has been increased and decreased at intervals during the past several years such as to materially change the operating expenses of the utility, with the result that numerous proceedings have had to be held for the modification of rates. The last change in price of oil, which apparently was unexpected even by a number of the oil companies themselves, amounted to a reduction of 25 cents per barrel. The cost of oil constitutes approximately 40 per cent of the total cost of service and a variation in the price of oil such as the last reduction of 25 cents per barrel represents

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a change in the cost of service of between 7 and 8 cents per 1000 cubic feet. A form of rate which will readily reflect the change in the cost of oil to applicant will be of equal advantage and protection to the company and the consumers and should eliminate considerable of the cost of hearings, which are now so frequently required, and make more stable the operations of the utility.

The question of the fixing of a rate which would vary with the price of oil has been given careful consideration in connection with this proceeding and in connection with several other gas proceedings and it has been found reasonable to set forth a procedure which will make possible a variation in the rates for gas upon a variation in the price of oil without the necessity of a hearing. An analysis of the operations of applicant's plant shows that the cost of gas sold varies at the rate of approximately 2.6 cents per 1000 cubic feet with each 10 cents change in the price of oil. The rates herein fixed will include a clause providing for this change.

The gas service rendered by applicant during the past winter has been the subject of considerable complaint, the chief cause of such complaint being the excessive sulphur in the gas. At the present time this condition has been eliminated by the obtaining of an oil of lower sulphur content. Although in general the sulphur content of the gas served by applicant has been below the maximum limit prescribed by the Commission's General Order, it is apparent that applicant should and must maintain a quality of gas of considerably lower sulphur content in order that a satisfactory service be rendered.

A careful inspection of the service of applicant in the Santa Barbara district was made by the Commission's gas engineers, from which it appears that in general applicant has complied with the requirements as set forth in the Commission's General Order No. 58. The company has, however, failed in several respects to comply with the Commission's regulations relative to service matters. From the statement of applicant's attorney it appears that applicant has regarded these as insignificant and has taken no active steps to comply with the same. It is evident that applicant has not appreciated the position of the Commission relative to gas service requirements, nor has it in this instance taken as broad a view of the spirit of service and its relation to the consumers as this Commission considers it should. The Commission will insist upon full compliance with the regulations in every respect, both technically and in the spirit of such regulations. Applicant has, however, recently taken steps toward the more complete compliance with the Commission's rules governing gas service. For this reason and because of certain circumstances which have already

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caused considerable delay in this proceeding, I am recommending that the rates as set forth in the following order be made effective without further delay.

I recommend the following form of order:

ORDER.

Southern Counties Gas Company having applied for an order establishing the rates to be charged by it for artificial gas service in the city of Santa Barbara and the adjacent unincorporated territory, a public hearing having been held and the matter being submitted and ready for decision::

The Railroad Commission of the State of California hereby finds as a fact that the existing rates of Southern Counties Gas Company for gas service in Santa Barbara and vicinity are unjust and unreasonable and that the rates herein established are just and reasonable.

Basing its order on the foregoing findings of fact and the other findings of fact as set forth in the opinion preceding this order;

It is hereby ordered, that Southern Counties Gas Company be and it is hereby authorized to charge and collect for gas service rendered in the city of Santa Barbara and adjacent territory the following rates, based upon all meter readings taken on and after July 21, 1921:

SCHEDULE No. 1.

General service.

Applicable to domestic and commercial service for lighting, heating and cooking, including restaurants, apartment houses, hotels, etc.

Territory.

Applicable to the territory within the incorporated limits of the city of Santa Barbara.

Rate.

First	600 cubic feet or less, per meter, per month	$1 00
Next	4400 cubic feet per meter per month	1 50 per M cubic feet
Next	15,000 cubic feet per meter per month	1 45 per M cubic feet
Next	30,000 cubic feet per meter per month	1 40 per M cubic feet
All over	50,000 cubic feet per meter per month	1 35 per M cubic feet

Upon the approval of the Railroad Commission of the State of California, the above rates are subject to increase or decrease on the basis of 2.6 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the base cost of oil, which base cost herein is $2.54 per barrel at the company's plant. Change to be to the nearest cent.

SCHEDULE No. 2.

General service.

Applicable to domestic and commercial service for lighting, heating and cooking, including restaurants, apartment houses, hotels, etc.

Territory.

Applicable to that portion of Santa Barbara County outside the incorporated limits of the city of Santa Barbara served by Southern Counties Gas Company.

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Rate.

First	600 cubic feet or less, per meter, per month	$1 00
Next	4400 cubic feet per meter per month	1 75 per M cubic feet
Next	15,000 cubic feet per meter per month	1 65 per M cubic feet
Next	30,000 cubic feet per meter per month	1 55 per M cubic feet
All over	50,000 cubic feet per meter per month	1 45 per M cubic feet

Upon the approval of the Railroad Commission of the State of California, the above rates are subject to increase or decrease on the basis of 2.6 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the base cost of oil, which base cost herein is $2.54 per barrel at the company's plant. Change to be to the nearest cent.

SCHEDULE NO. 3.

Special commercial service.

Applicable to commercial service, lighting, heating and cooking, including restaurants, hotels, newspapers, etc.

Territory.

Applicable to the territory within the incorporated limits of the city of Santa Barbara.

Rate.

Rate per 1000 cubic feet, per month	$1 30
Minimum monthly charge, per meter	52 00

Upon the approval of the Railroad Commission of the State of California, the above rates are subject to increase or decrease on the basis of 2.6 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the base cost of oil, which base cost herein is $2.54 per barrel at the company's plant. Change to be to the nearest cent.

It is hereby further ordered, that in case of a reduction in the price of oil, Southern Counties Gas Company shall file within ten days thereafter an affidavit setting forth the new price of oil, and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedule herein set forth.

It is hereby further ordered, that should at any time an increase in price of oil occur, applicant may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increase in rates as determined from an application of the rates herein set forth.

It is hereby further ordered, that Southern Counties Gas Company of California shall, within twenty days of the date of this order, file with the Railroad Commission the foregoing schedules of rates.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of June, 1921.

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DECISION NO. 9128.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS PAR VALUE OF ITS PREFERRED CAPITAL STOCK.

Application No. 6895.

Decided June 21, 1921.

LeRoy M. Edwards, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

Southern Counties Gas Company of California asks permission to issue and sell, at not less than $95 per share, 12,500 shares ($1,250,000) of its 8 per cent preferred stock and use the proceeds to pay current indebtedness and the cost of additions and betterments to its plant and system.

Applicant has an authorized stock issue of $5,000,000, divided into $2,500,000 of common and $2,500,000 of preferred. The preferred stock, under applicant's amended articles of incorporation, has a preference both as to earnings and assets. The company reserves the right and privilege to redeem on any dividend payment date all or any part of the preferred stock by paying the holders thereof $102 per share and the accumulated dividends. There is none of applicant's preferred stock outstanding at this time. Of its authorized common stock, $1,500,000 is outstanding, all of which, except directors' shares, is owned by the Southern Counties Gas Securities Company.

In Exhibits 1 and 2 applicant reports notes and accounts payable as of June 13, 1921, aggregating $893,051.32. The funded debt of applicant as of April 30, 1921, is reported at $6,264,600 and is said to consist of $4,864,600 of first mortgage 5½ per cent bonds, $800,000 of second mortgage 6 per cent gold notes and $600,000 of 8 per cent collateral trust bonds, secured by first mortgage bonds.

During the past few years, applicant has secured all the moneys invested in its properties through the issue of bonds or other evidences of indebtedness, or the investment of earnings. The amount of earnings invested represents a relatively small part of applicant's total investment. In Decision No. 8399, dated November 30, 1920, the Commission concluded that applicant should devise a more satisfactory method of financing part of its expenditures for plant extensions, additions and betterments. The record shows that applicants' stockholders and board of directors have decided to endeavor to secure part of moneys necessary to properly finance its properties through the sale of preferred stock.

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At this time applicant asks permission to issue and sell $1,250,000 of its preferred stock and use the proceeds to pay its notes and accounts payable, and such part of its construction expenditures against which it can not issue bonds under its first mortgage.

Applicant does not intend to sell any of its stock through brokers but market all of the stock covered in this application through its own organization. While the company asks permission to sell its stock at not less than $95 per share, it is the hope of applicant that it will be able to realize more than $95 net per share.

I herewith submit the following form of order:

ORDER.

Southern Counties Gas Company of California having applied to the Railroad Commission for permission to issue and sell $1,250,000 of 8 per cent preferred stock, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes mentioned in this order and that expenditures for such purposes are not in whole or in part chargeable to operating expenses or to income;

It is hereby ordered, that Southern Counties Gas Company of California be and it is hereby authorized to issue and sell at not less than $95 per share, $1,250,000 of its 8 per cent preferred stock.

The authority herein granted is subject to further conditions as follows:

1. No share or shares of stock shall be issued, nor any stock certificate or certificates delivered until applicant has received in cash the full selling price of said share or shares of stock or stock certificate or certificates.

2. Of the proceeds realized from the sale of stock, not exceeding $893,051.32 may be used to pay the notes and accounts payable reported in applicant's Exhibits "1" and "2" filed in this proceeding.

3. The remainder of the proceeds and such portion of the $893,051.32 not used by applicant to pay the indebtedness to which reference has been made, shall be used by applicant to pay for additions and betterments, provided that none of said remainder of the proceeds be expended until the Commission has, by supplemental order, indicated the specific purposes for which the proceeds may be used.

4. Southern Counties Gas Company of California shall keep such record of the issue and sale of the stock herein authorized, and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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5. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of June, 1921.

DECISION NO. 9129.

IN THE MATTER OF THE APPLICATION OF THE LAWRENCE WAREHOUSE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 6891.

Decided June 21, 1921.

Chas. C. Boynton, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

Lawrence Warehouse Company asks permission to issue and sell $50,000 of its common stock and $50,000 of its 8 per cent cumulative preferred stock and to use the proceeds to pay outstanding notes and for working capital.

The company was incorporated with an authorized common capital stock of $10,000, all of which was issued pursuant to authority granted in Decision No. 4310, dated May 10, 1917 (Volume 13, Opinions and Orders of the Railroad Commission of California, page 227). Subsequently, the company increased its capital stock to $50,000. By Decision No. 6464, dated June 30, 1919 (Volume 16, Opinions and Orders of the Railroad Commission of California, page 976), applicant was authorized to issue the remaining $40,000 of common stock to pay outstanding accounts amounting to $23,700 and for working capital. Recently the company has amended its articles of incorporation, increasing its capital stock to $200,000, divided equally into common and 8 per cent cumulative preferred stock, all shares being of the par value of $10 each.

Applicant at present operates nineteen warehouses having a total floor space of 819,000 square feet. The location and site of its various warehouses are described in the petition as follows:

1. Standard warehouses Nos. 1 to 5, Fifth and Poplar streets, Oakland. Capacity 67,500 square feet. Nos. 1 to 4 of brick construction; No. 5 of concrete construction. Date of lease September 1, 1917, for a term of twenty-five years.

2. No. 11 Warehouse, Fifth and Magnolia streets, Oakland. Capacity 4000 square feet. Frame building. On ninety-nine-year lease. Buildings belong to the Lawrence Warehouse Company.

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3. East End Warehouses Nos. 1, 2 and 3, foot of Twenty-second avenue, Oakland. Capacity 37,000 square feet. Nos. 1 and 2 galvanized iron buildings. No. 3 concrete building, sawtooth roof construction. Capacity 30,000 square feet. Twenty-five-year lease.

4. Oakland Terminal Warehouse, foot of Jefferson street, Oakland. Capacity 36,000 square feet. Steel frame construction. Fifteen-year preferential rights.

5. Sacramento Fireproof Warehouse, Eleventh and R streets, Sacramento. Capacity 90,000 square feet. Lease dated January, 1920, for a term of twenty-five years. Concrete building.

6. River Front Warehouse, Front and R Streets, Sacramento. Capacity 400,000 square feet. Brick building. Lease dated January, 1921, for a term of five years.

7. Thirtieth and R Street Warehouse, Front and R street, Sacramento. Capacity 6400 square feet. Galvanized iron building. No term lease.

8. River Front No. 2 Warehouse, Front and Q Streets, Sacramento. Capacity 6000 square feet. Galvanized iron building. Three-year lease.

9. Lots 1, 2 and 3, Block 489 Briggs Tract, 853 feet frontage Fifth and Magnolia streets, Oakland. Capacity 8330 square feet. Ninety-nine-year lease dated from December 31, 1915.

10. Lots 1 to 9, block 490 Briggs Tract, 230 feet frontage. Fifth and Poplar streets, Oakland. Capacity 23,000 square feet. Ninety-nine-year lease.

11. Lawrence Warehouse No. 19. Second and Brannan streets, San Francisco. Capacity 140,000 square feet, heavy mill construction, sprinkler system. Fifteen-year lease dated April, 1920.

The testimony shows that negotiations are now pending for the leasing of additional warehouses in San Francisco.

In Exhibit "F" attached to the petition, applicant reports its assets and liabilities as of December 31, 1920, as follows:

Assets.

Fixed capital		$61,987 51
Organization, franchise, patent rights	$48,751 16	
Cost of plants, buildings, land, etc.	1,200 00	
Equipment	21,551 25	
Miscellaneous autos and trucks	26,505 10	
Subtotal	$97,987 51	
Less appreciated value of fixed capital	36,000 00	
Net	$61,987 51	
Treasury securities		2,640 00
Other investments		1,103 00
Oakland baseball stock	528 00	
Sacramento warehouse stock	175 00	
Fageol Motors Company stock	400 00	
Current assets		104,787 65
Cash	2,902 62	
Notes receivable	420 00	
Accounts receivable	95,815 41	
Materials and supplies	5,649 62	
Deferred debits		5,312 24
Total assets		$175,830 40

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Liabilities.

Common capital stock		$50,000 00
Current liabilities		82,358 29
Notes payable	$40,000 00	
Audited vouchers and wages unpaid	4,945 00	
Miscellaneous accounts payable	54,691 99	
Accrued expenses	2,721 21	
Deferred credit items		12,693 67
Suspense account		8,936 10
Surplus		21,842 34
Total liabilities		$175,830 40

The notes payable of $40,000, which applicant proposes to refund by the issue of stock, are all 7 per cent ninety-day notes.

In reports filed with this Commission, applicant reports revenues and expenses as follows:

Item	1918	1919	1920
Operating revenues	$138,939 84	$209,222 63	$290,117 55
Operating expenses	132,629 51	196,335 63	284,406 33
Net operating income	$6,310 33	$12,887 00	$5,711 22
Other income	1,441 13		
Gross corporate income	$7,751 46	$12,887 00	$5,711 22
Interest deduction	945 97	1,327 47	2,687 79
Net corporate income	$6,808 49	$11,559 53	$3,023 43
Surplus beginning of year	1,696 49	8,504 98	20,596 81
Additions to surplus		1,135 00	
Deductions from surplus		602 70	1,777 90
Surplus at end of year	$8,504 98	$20,596 81	$21,842 34

V. O. Lawrence, applicant's president, urges that as a result of the increased business, a larger working capital represented by stock is necessary. I am inclined to agree with him in his contention.

The record shows that no arrangements have been made for the sale of the stock. Applicant's president is however of the opinion that the stock can be sold at not less than 95 per cent of its par value. The present stockholders will purchase some of the stock, while some will be offered to applicant's patrons and employees.

I herewith submit the following form of order:

ORDER.

Lawrence Warehouse Company having applied to the Railroad Commission for permission to issue $100,000 of capital stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for

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by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Lawrence Warehouse Company be and it is hereby authorized to issue not exceeding $50,000 of its common stock and $50,000 of its 8 per cent cumulative preferred stock.

The authority herein granted is subject to further conditions as follows:

1. The stock herein authorized to be issued shall be sold by applicant, for cash, at not less than 95 per cent of its par value. No stock shall be issued or delivered until applicant has received cash payment equal to at least 95 per cent of the par value of the stock subscribed for by a stock subscriber.

2. Of the proceeds from the sale of the stock herein authorized, $40,000 may be used to pay the notes payable described in the application herein and referred to in the preceding opinion. The remainder of the proceeds may be used for working capital or for such other purposes as the Railroad Commission may hereafter authorize.

3. Lawrence Warehouse Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall apply only to such stock as may be issued on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of June, 1921.

DECISION NO. 9131.

JUDSON MANUFACTURING COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1551.

Decided June 21, 1921.

A. Larsson, for Complainant.

Frank B. Austin, for Defendant.

LOVELAND, *Commissioner.*

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OPINION.

Complainant, the Judson Manufacturing Company, is a corporation organized under the laws of the State of California, and is engaged in the production, manufacture and sale of steel products, with mills at Emeryville and its principal offices at San Francisco.

This proceeding, instituted March 17, 1921, alleges that the switching charges of the Southern Pacific Company for moving carload shipments of ingots and other steel articles between points within the plant located at Emeryville are unjust, unreasonable, discriminatory and prejudicial and, therefore, in violation of the Public Utilities Act. Reparation is asked upon the shipments moved between July and December, 1917.

Charges were collected under the provisions of Item No. 67–C, page 8, revised page 20 of Southern Pacific Terminal Tariff No. 230–G, C. R. C. No. 1260, which item carries rate of 25 cents per ton, minimum charge $5 per car. Complainant alleges that the charges collected should not have been in excess of $2.50 per car.

Subsequent to December, 1917, complainant constructed additional tracks over its own property within the plant and is now performing the service with a plant locomotive; therefore, no order for the future is asked, so that the sole question presented in this proceeding is the amount of reparation, if any, to which complainant is entitled for the service performed.

Emeryville is a local station 1.1 miles east of Oakland (Sixteenth street), within the Oakland switching limits. The shipments involved numbered 182 and were moved an approximate distance of 3200 feet between points both of which are located within the plant enclosure. About 1700 feet of the tracks used belong to the Southern Pacific Company, is just outside of the plant property, and about 100 feet of this track is main line.

Testimony of complainant's witnesses was to the effect that the equipment employed in this service is unloaded or partly unloaded at points within the yard, principally in the open hearth department, reloaded with ingots or scrap iron to be taken to the rolling mill department. No special cars, that is, no empty cars, were ever taken into the plant for the performance of this movement.

The bills covering the shipment in controversy were not paid until the months to January to March, 1920, although the service was performed in the last half of the year 1917. The explanation for this delay in settlement is that, through some misunderstanding, the switching crews failed to render reports of the intrayard service performed within the plant of the Judson Manufacturing Company and that it was not until after an inspection by the defendant's traveling auditors

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that the situation was disclosed. Upon presentation of the bills to this complainant controversy arose as to the correctness of the charge and for these reasons settlement was not made until some three years after the service had been rendered.

By its Exhibit No. 3 complainant shows a comparison of intrayard terminal and intraplant switching charges at stations served by the Southern Pacific Company, where the charge varies from $1.50 to $2.50 per car. However, it is to be noted that all of the comparisons used, with the exception of the service performed at Algoma, Oregon, and at Richmond, California, involved line-haul traffic and, therefore, are not comparable and can not be used in arriving at a just rate for the intraplant service performed at Emeryville. At Algoma, Oregon, in the year 1917, a charge of $2.50 per car was made for switching within the plant yards. No explanation of why this rate was published has been given and the same was canceled out of the tariff August 27, 1919.

The other item, not restricted to line-haul traffic, covers a charge of $2 per car at Richmond; Item 182–1, page 36, Southern Pacific Terminal Tariff No. 230–G, C. R. C. No. 1260. This item, however, is restricted to points located within the yard of the industrial or car owner's plant, a different service to that performed on behalf of the complainant at Emeryville.

Defendant presented but one exhibit, a map showing the location of the tracks within the complainant's plant at Emeryville and the tracks outside the plant property owned by the Southern Pacific Company. The contention of defendant is that the service rendered in the movement of the cars involved in this proceeding where Southern Pacific tracks outside of the plant are used can not be treated as intraplant movement similar to the service performed at Richmond, where all the tracks, as well as the leads to and from the spurs, are owned by the industry. The switching service performed at the two points, however, is very similar and, apparently, is no greater at one station than at the other, although at Richmond the intraplant movement is ten times greater than at Emeryville.

Some testimony was given to the effect that a freight car has a daily earning capacity of $7.27 when kept in service under load. In view of the large amount of switching service performed at rates voluntarily established lower than the average claimed, it would seem this element is of little importance in reaching a conclusion in the instant proceeding.

The common intrayard local switching charge of the Southern Pacific Company at all stations in Arizona, California, Nevada, Utah, New Mexico and Oregon, as shown by Southern Pacific Terminal Tariff 230–G, Item 67–C, was 25 cents per ton, with a minimum charge of $5 per car. From industrial tracks and private sidings to transfer tracks

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of connecting lines the charge is 25 cents per ton, with a minimum of $5 per car to the carrier originating the traffic and furnishing the equipment, and $2.50 per car to the carrier moving the car from the transfer tracks to the industry tracks. Therefore, for a strictly intrayard station movement requiring the services of two carriers, the minimum charge is $7.50 per car. Under this tariff provision the Southern Pacific Company was switching cars, as shown by the testimony, originated by connecting carriers, from its transfer tracks within the Oakland switching limits, for $2.50 per car, the service being no different than that performed in the movement of the 182 cars involved in this proceeding; special equipment was not furnished, the cars being brought into the Emeryville plant in connection with line-haul traffic.

It appears to me to be inconsistent to make the same charge (25 cents per ton, minimum $5 per car) for an intraplant switching movement, using the line-haul cars, as is made for a similar intrayard service where special cars must be switched to the point of loading, and a much greater haul is involved from industry tracks to industry tracks or the transfer tracks of connecting carrier. The intraplant service is more comparable with the service performed for $2.50 from transfer tracks to industry tracks.

Considering the shorter distance haul, but 3200 feet, between points located within the complainant's plant, and giving consideration to the equipment used, I am of the opinion that the charge of 25 cents per ton, with a minimum of $5 per car, was excessive and unreasonable. The only distinction between the service performed at Emeryville, with a charge of 25 cents per ton, minimum $5 per car, and the flat rate of $2 per car assessed for a similar intraplant switching movement at Richmond, is the fact that for a distance of some 1700 feet the cars are moved over the rails of the Southern Pacific Company. It is claimed, however, by the complainant, and not positively contradicted by the defendant, that this switching track, 1700 feet in length, was built primarily by the Southern Pacific Company for use of this complainant.

I am of the opinion that a just and reasonable rate for the service performed involved in this proceeding would be $3 per car, and in reaching this conclusion I have given consideration to the fact that the tracks used belong in part to the Southern Pacific and, therefore, that company is entitled to a greater charge than is assessed by it for performing a similar service within the plants located at Richmond.

No rate for the future will be established, as the testimony shows that the switching is now being done by this complainant with its own power.

The exact amount of reparation due can not be determined on this record and complainant should prepare a statement covering the ship-

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ments, which statement should be submitted to the defendant. If an agreement can not be reached as to the exact amount of reparation due the matter should then be referred to this Commission for further consideration.

I submit the following order:

ORDER.

Complaint and answer having been filed in the above entitled proceeding, a public hearing having been held, the Commission being fully apprised in the premises, and basing its order on the findings of fact which appear in the foregoing opinion;

It is hereby ordered, that the Southern Pacific Company be and the same is hereby authorized and directed to pay unto complainant, Judson Manufacturing Company, within ninety (90) days from the date of this order, a sum equal to the difference between the charges paid and those that would have accrued at the rate of $3 per car, found to be reasonable, with interest thereon at the rate of 7 per cent per annum from date of collection, as reparation on account of unreasonable charges assessed on carloads of ingots and scrap iron between points within complainant's plant, during the period July to December, inclusive, 1917.

It is hereby further ordered, that if an agreement can not be reached as to the exact amount of reparation due, complete data be submitted to this Commission, when a supplementary order fixing amount of reparation will be entered.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of June, 1921.

DECISION No. 9132.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR INCREASE IN RATES CHARGED FOR GAS.

Application No. 6326.

Decided June 22, 1921.

RATE BASE—CAPITAL.—Reasonable operative investment to be considered as a rate base for the twelve months commencing July 1, 1921, fixed at $20,164,963.

DEPRECIATION, AMOUNT AND INTEREST—RATE OF RETURN.—Depreciation annuity computed on a 6 per cent sinking fund basis allowed as part of the operating expenses of the company. On the sinking fund depreciation basis, where a return is allowed upon the investment in the properties, it is held essential

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that applicant should set aside out of its net earnings to its depreciation reserve 6 per cent upon the accrued depreciation to date.

RATE OF RETURN.—Eight per cent found reasonable on capital invested, except $2,810,000, on which 9 per cent, the cost of the money, is allowed.

SERVICE.—Standard of gas reduced to 770 British thermal units per cubic foot, monthly average.

RATE OF RETURN—TAXES.—In operating expenses allowance made for state taxes at the rate of 7½ per cent upon the gross revenue for the preceding twelve months, normal federal income tax, capital stock tax and city and county franchise tax. Excess profit tax not allowed, as should be paid out of net return.

APPLIANCES.—Necessary to make adjustments on account of change in gas quality.

RATE OF RETURN.—Differential in cost of gas and oil established at 1 cent per M cubic feet to 10 cents variation in oil.

REIMBURSEMENT.—Applicant allowed to collect in addition to schedules, 3 cents per M cubic feet of gas to compensate for increase in price of oil from date of application, amounting to $249,000.

Herbert J. Goudge, Paul Overton, S. W. Guthrie, for Applicant.

Jess E. Stephens, Wm. P. Mealy, H. Z. Osborne, Jr., for City of Los Angeles.

James H. Howard, Roscoe R. Hess, for City of Pasadena.

Kemp, Mitchell and Silverberg, for Chamber of Commerce of City of Los Angeles.

Ben W. Utter for the County of Los Angeles.

C. C. Gould, for the City of Alhambra.

Thomas A. Berkebile, for the City of Monterey Park.

BRUNDIGE and ROWELL, *Commissioners*.

OPINION.

Los Angeles Gas and Electric Corporation, applicant herein, asks authority to increase its rates and charges for gas alleging that since the establishment of the present rates as authorized by Decision No. 6139 (Opinions and Orders of the Railroad Commission of the State of California, Volume 16, page 4781) the costs of gas manufacture and distribution and the cost of money have increased materially; that these increases have been wholly beyond the control of applicant and that there appears little probability of a reduction in any of these costs in the near future; that the cost of crude oil and natural gas has advanced materially since applicant's rates were last established and it is now impossible to obtain contracts for the purchase of oil at fixed prices as heretofore; that the market price for oil has increased to $2 per barrel, an increase of 40 cents over the former price of $1.60 per barrel. Applicant further alleges that it has been necessary to make substantial increases in the rates of wages of its employees, thereby contributing largely to higher operating expenses; that taxes have been increased and that large additional investments are being made by it for new equipment and enlargement of its facilities in order that it may render full and adequate service to all consumers. Applicant prays that the Railroad Commission make the necessary investigation and thereupon establish such rates as it shall find just and reasonable.

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Evidence submitted in this proceeding consisted of exhibits and testimony presented by applicant's comptroller, Mr. W. E. Houghton, and its engineer, Mr. J. E. Barker, exhibits and testimony relative to applicant's operations presented by the Commission's engineer, H. L. Masser, who has been supervising natural gas operations in Los Angeles district during the past winter, a report by the Commission's Department of Finance and Accounts of applicant's investment and operating costs, and by testimony of H. Z. Osborne, Jr., Chief Engineer of the Board of Public Utilities, who submitted exhibits regarding applicant's operating expenses and revenues. It was further stipulated that the decision and testimony in Application No. 1830 and subsequent rate proceedings by applicant and its annual reports and special reports filed with the Commission be considered in evidence. Briefs have been filed by the city of Los Angeles and the city of Pasadena dealing with the evidence and request herein. The matter has been submitted and is now ready for decision.

Since the submission of this application the Standard Oil Company of California has made effective a reduction of 25 cents per barrel in the prices of various grades of fuel oil. This price revision has also been accepted by other oil companies and applicant is therefore now purchasing oil at a lower rate than obtained at the time the case was submitted. A communication has been filed by applicant in regard to the reduction in the price of oil and it has been agreed that this fact might be considered in evidence.

There is before this Commission at the present time an application by Midway Gas Company for increase in rates for natural gas sold by it, a large portion of which is purchased by Los Angeles Gas and Electric Corporation. However, due to the pressing need of applicant for relief from continuing losses, it appears necessary that this proceeding be decided upon the existing costs of natural gas.

Applicant is engaged in supplying gas service to the major portion of Los Angeles City, and also to the cities, towns and unincorporated territory of Pasadena, South Pasadena, Alhambra, San Gabriel, Inglewood, Huntington Park, Eagle Rock, San Marino, Vernon, Watts, Monterey Park and territory adjacent to the above. The standard quality of gas to be supplied by applicant was established a number of years ago at 815 British thermal units per cubic foot, being for the service of "mixed gas" composed of approximately equal parts of natural and artificial gas.

During the last two years the increase in gas sales by applicant has been phenomenal. In the year 1918 total sales amounted to 4,837,428 M cubic feet, in 1919 to 5,785,557 M cubic feet, and for 1920 to 7,196,406 M cubic feet. Accompanying these large increases there has

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been an even more exaggerated peak load condition. In December, 1918, the peak day sendout equaled 32,000,000 cubic feet. January, a year later, this figure increased to more than 37,000,000 cubic feet, and on January 11, 1921, a peak day sendout of 52,300,000 cubic feet was experienced. These tremendous winter demands have made necessary the construction and installation of extremely large gas generating and compressing facilities, together with large pressure reinforcing lines. Applicant is at the present time reconstructing its plant and during the next year will complete the largest artificial gas generating plant and facilities in the State of California. In view of this a considerable change in the investment and operations may be expected.

The consideration of this rate application naturally divides itself into the following subdivisions:

1. Capital.
2. Rate of return.
3. Depreciation—Amount and interest.
4. Sales and revenue under existing rates and the present quality of service of 815 British thermal units.
5. Gas service:
   Service rendered.
   Operating conditions.
   Need of uniform gas quality.
6. Gas quality to be served.
7. Operating expenses for year ending June 30, 1922.
8. Total cost of service.
9. Rates.

Capital.

In this proceeding it is necessary to give special consideration to the matter of invested capital, in as much as applicant is now engaged in such an extensive program of plant enlargement. During the year 1921 it is estimated that in excess of $5,350,000 will be expended on this work. Applicant estimates that its average operative investment for the year ending March 31, 1922, on which it requests that it earn a fair return, will be $20,863,258. This amount is comparable with the company's estimate of the average operative investment for the year 1920 of $15,151,986, showing an increase of approximately $5,700,000, or 37 per cent, during a period of slightly over twelve months.

Applicant has taken as its basis of arriving at the above estimates the rate base set forth in the Commission's Decision No. 6139 in Application No. 4009, to which it has added the actual additions and betterments to December 31, 1920, and the estimated additions to October 1, 1921. Changes have been made by applicant in the amount estimated for materials and supplies and working cash capital to account for

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increase in the amount of business and the amount of materials and supplies required on hand.

Mr. H. L. Masser, assistant engineer of the Commission, submitted an estimate of the operative investment to be considered as an average for the year ending June 30, 1922, totalling $19,963,311.

In view of the fact that the rates to be fixed herein will not become effective until practically the first of July, 1921, it appears advisable to estimate the investment, operating expenses, statistics and return for the year commencing on that date.

From an analysis of the evidence it appears that all of the property listed in applicant's exhibit will not be operative, on the average, for the period considered, although probably the entire amount estimated by applicant will have been expended by October 1, 1921. The estimate submitted by Mr. Masser should on the other hand be increased to cover estimated interest during construction, not capitalized and additional allowance for materials and supplies, because of the greater amount of oil which under the operating conditions as herein modified, it appears should be allowed in determining the investment in necessary supplies to be carried. After careful analysis of the evidence it would appear that the reasonable operative investment to be considered as a rate base for the twelve months commencing July 1, 1921, is the sum of $20,164,933. Table I herein sets forth by general accounts the investment in operative property as of January 1, 1921, the estimated net operative additions to January 1, 1922, and the operative investment to be used herein as a rate base as of January 1, 1922, together with the estimated depreciation annuity to be allowed for the period in question.

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TABLE I.

LOS ANGELES GAS AND ELECTRIC CORPORATION.
Summary of Rate Base, Gas Properties.

	Total investment as of January 1, 1921	Estimated net operative additions to January 1, 1922	Estimated rate base as of January 1, 1922	Depreciation	
				Rate	Annuity
Intangibles—					
Organization	$20,000 00		$20,000		
Franchise	6,224 76		6,224		
Total intangibles	$26,224 76		$26,224		
Production capital—					
Lands	$374,786 26	$39,893	$414,679		
Buildings	355,465 18	224,540	580,005	.01063	$6,165
Holders	1,110,360 17	19,310	1,129,672	.00646	7,298
Furnaces, etc.	236,475 32	150,633	397,108	.01823	7,239
Generators	552,592 82	441,870	994,462	.01358	13,505
Purifiers	227,519 51	302,305	529,824	.01358	7,195
Water gas sets	22,388 00	*—22,388			
Accessories	1,329,008 43	1,189,650	2,518,658	.01823	45,915
Total production	$4,208,595 69	$2,345,815	$6,554,408		
Distribution capital—					
Lands	$18,524 31	$63,332	$81,856		
Mains	6,890,959 44	1,110,200	8,001,159	.00995	$79,612
Services	1,886,099 36	233,760	2,119,859	.03499	74,174
Meters	1,478,824 50	140,990	1,619,859	.03416	55,333
Regulators	213,497 67	27,440	240,937	.02718	6,549
Miscellaneous	32,345 31	4,365	36,710	.07587	2,785
Total distribution	$10,520,250 59	$1,580,087	$12,100,335		
General capital—					
Lands	$69,883 88		$69,883		
General structures	136,746 54	$65,045	201,791	.00363	$733
General office equipment	90,661 86	6,448	97,109		
General shop equipment	2,305 28	1,421	3,726		
Garage equipment	136,075 88	41,540	177,615	.10046	34,127
Tools	61,257 41		61,257		
Total general	$496,930 85	$114,454	$611,381		
Total	$15,252,001 89	$4,040,356	$19,292,348		$340,630
Materials and supplies			572,250		
Working cash capital			300,335		
Total for rate base			$20,164,933		

*Retirement.

As set forth above, the depreciation annuity computed on a 6 per cent sinking fund basis for the year in question has been estimated at $340,630. This amount should be allowed as part of the operating expenses of the company. On the sinking fund depreciation basis, where a return is allowed upon the investment in the properties, it is essential that applicant should set aside out of its net earnings to its depreciation reserve 6 per cent upon the accrued depreciation to date. In the Commission's Exhibit No. 1 there is set forth an estimate of the

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total accruals to January 1, 1921, of $3,242,873. Applicant has in the past set aside in its depreciation reserve an amount equal or greater than the annuity found reasonable plus interest upon the accrued depreciation. It should in the future continue to set aside out of its net return an amount equal to 6 per cent upon the accrued depreciation, or, for the year 1921, the sum of $194,560.

Applicant requests in this proceeding that it be granted rates sufficient to return to it 8 per cent upon all the capital invested with the exception of the amount of $2,800,000, procured for financing of a part of the recent additions and betterments, upon which it asks a 9 per cent return. This additional capital was obtained through the sale of bonds at a cost of money of practically 9 per cent. From consideration of the cost of money to applicant and the rate of return heretofore found reasonable, and which has been found reasonable in similar instances, the request of applicant as to the rate of return is found reasonable.

Sales and revenue under existing rates

The gas sales, revenue, operating expenses and net return of Los Angeles Gas and Electric Corporation for the years 1919 and 1920 are set forth in the following Table II:

TABLE II.

LOS ANGELES GAS AND ELECTRIC CORPORATION—SUMMARY OF GAS OPERATIONS.

	Year 1919	Year 1920
Quality of gas—British thermal units	809	806
Sendout, M cubic feet	6,418,551	7,854,799
Sales, M cubic feet	5,785,557	7,196,406
Average number of consumers	144,229	156,799
Revenue—		
Gas sales	$4,228,940	$5,301,834
Briquets	172,269	181,590
Miscellaneous	560	22,152
Total	$4,401,769	$5,505,577
Expenses—		
Production	$1,716,872	$2,453,506
Distribution	196,519	295,539
Commercial	325,269	420,079
General	187,422	273,670
Briquets	132,975	161,217
Uncollectible bills	21,786	22,108
Taxes	439,434	442,309
Depreciation	210,676	229,718
Total	$3,230,953	$4,298,147
Net for return	$1,160,816	$1,207,429
Rate base	$13,971,705	$15,211,534
Per cent of return	8.31%	7.93%

During these two years the average quality of the gas supplied, as shown by the records of the company, was 809 and 806 British thermal units per cubic foot respectively.

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Applicant submitted an estimate of the sales, revenues, expenses and rate of return which would be received under existing rates and serving as near as possible the quality of gas in accordance with the standard of 815 British thermal units heretofore fixed. This estimate was based upon a price of oil of $2 per barrel, which price was in effect at the time the proceeding was heard. If the present reduced price of oil continues and applicant's estimate be revised on the basis of $1.75 price of oil for the entire year, a reduction in operating expenses of $321,750 will be made in the above estimate for oil and taxes. The following Table III sets forth applicant's estimate for the year ending March 31, 1922:

TABLE III.

LOS ANGELES GAS AND ELECTRIC CORPORATION—ESTIMATES OF OPERATIONS FOR YEAR ENDING MARCH 31, 1922.

Based on Applicant's Estimate of Revenue Required, Rate Base and Reasonable Return.

(Oil price $2 per barrel.)

Average quality of gas 777 British thermal units.	
Sendout, M cubic feet	10,221,962
Sales, M cubic feet	9,097,545
Number of consumers December 31, 1921	180,298
Revenue—	
Gas sales (revenue at existing rates)	$6,702,161
Briquets	250,000
Miscellaneous	22,000
Total	$6,974,161
Expenses—	
Production	$3,852,022
Distribution	391,723
Commercial	495,919
General	322,702
Briquets	200,000
Uncollectible bills	31,632
Taxes	584,064
Depreciation	334,806
Total	$6,210,868
Rate base	$20,863,258
Net return requested	1,697,061
Additional revenue required	933,768
Increase required per M cubic feet	10.25 cents

Estimates were also presented by the Commission's engineers covering operating statistics, revenues and expenses for several qualities of mixed gas service and for natural gas service during such period of the year as possible and mixed gas during the remainder.

Gas service.

The quality of gas service to be supplied by Los Angeles Gas and Electric Corporation and Southern California Gas Company has been the subject of considerable controversy and extended investigations, and several formal proceedings. The city of Los Angeles has for some time advocated the service of straight natural gas during the summer and the

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highest British thermal units content of gas possible during the winter. The city of Los Angeles also urges that there are additional sources of natural gas supply not at present being brought into the city which, if made use of, would make possible an almost straight natural gas service throughout the year.

From a study of the additional supplies suggested by the city, such as the taking of gas away from field operations in several of the oil fields and supplanting the gas with oil, and also by the substitution of gas by oil in refineries of certain of the oil companies, it does not appear that these methods of obtaining gas are at present commercially feasible.

It is the desire of applicant that a uniform quality of gas service be supplied. During the past winter a serious condition of gas service existed in Los Angeles and vicinity. Applicant was not able to maintain a uniform quality of gas and there resulted very unsatisfactory service conditions and a large number of complaints by consumers as to the quality of the gas served. In order to mitigate the difficulties during the past winter, the Commission assigned one of its engineers to supervise the distribution of natural gas between the various gas utilities. Careful record was kept of the service conditions existing. Laboratory tests relative to the effect of varying qualities of gas were made by the Commission's engineers, assisted by engineers of the company and the city of Los Angeles, which indicated to a considerable extent that satisfactory service could not be obtained by fluctuation in the quality of gas from natural gas to mixed gas. Testimony of consumers and the testimony of representatives of one of the appliance companies corroborated this conclusion. To follow the suggestion of the city of Los Angeles would be to require the supplying of natural gas from six to seven months in the summer and then the necessity on the part of the company to supply a varying quality of gas throughout the remainder of the year. For satisfactory service, in general, it would be necessary to adjust appliances at least twice each year, an impossible thing to do when it is considered that there are practically 200,000 consumers on the systems of applicant and Southern California Gas Company. It has been the observation of the Commission's engineers that it is not practicable for consumers to adjust their own appliances.

The use of gas for cooking and heating purposes in Los Angeles is more extensive than in practically any other city in California. Many houses are constructed without equipment for the use of other fuels and it is of vital importance that a satisfactory quality of gas be supplied even though the cost per thousand cubic feet delivered may be slightly higher. We are convinced that the plan suggested by the city of Los Angeles is not advisable; that it is more important that a uniform quality of gas be supplied than an apparent saving be shown through the supplying of a widely varying quality of gas; that the consumers

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will obtain greater satisfaction and greater efficiency and a resulting economy through the supplying of a uniform quality rather than a varying quality of gas, which at best would be far from satisfactory.

During the past year the amount of natural gas available to applicant has decreased in relation to its actual requirements, due to the tremendous increase in gas sendouts. Peak loads during the past winter have been of such magnitude that it has been wholly impossible to maintain the established heating value standards. Because of this condition the Commission authorized a temporary reduction for the past winter from 815 British thermal units to 760 British thermal units per cubic foot. The experience gained from the Commission's supervisory work of gas conditions in Los Angeles has indicated very definitely the necessity for the establishment of a standard for gas quality which can be maintained. In making the determination of a new gas standard to be established, the fact must not be lost sight of, that since the delivery of large volumes of gas from the new Elk Hills Field, the quality of natural gas being delivered to applicant has dropped from about 1050 British thermal units to approximately 970 British thermal units per cubic foot. This condition obviously makes impossible the maintenance of as high a standard as was previously possible with the same percentage of natural gas in the commercial mixed gas supplied to applicant's consumers.

After a careful consideration of operating conditions, and requirements of the Los Angeles district, and probable amount of natural gas available to applicant, it appears to be impossible to maintain as high a heating value standard as the present 815 British thermal units during the coming winter. It is the Commission's opinion that the highest practicable quality of gas service which can be maintained within reasonable limits for a period of more than one year should be put in effect. This would permit the proper adjustment of appliances to a setting which would be relatively permanent. Peak winter loads will obviously cause temporary drops in the heating value below the fixed standard. The standard, however, must not be established so high that these fluctuations below it during peak periods would result in generally unsatisfactory service because of the existing adjustment of gas appliances being unable to properly and efficiently utilize gas of the changed quality.

The present standard should be reduced to 750 British thermal units per cubic foot, monthly average, as hereinafter ordered, with a maximum permissible fluctuation of 35 British thermal units below and 35 British thermal units above except in cases of serious emergencies caused by failure of natural gas supply. It is the intent of these limitations that deviations below the standard quality on a peak day of large gas send outs shall not be compensated for by an equal increase above the

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standard on a warmer day of small sendout. It is the intent that the average quality of the total of all gas sent out shall comply with the standard established. This is an actual reduction of only 56 British thermal units in the average quality as was supplied for the year 1920.

Applicant testified that it expects an increase of 15 per cent in gas sales during the coming year. From January 1, 1919, to December 31, 1920, there has been an increase of 24,574 in the number of active meters. A study of present conditions in Los Angeles and vicinity indicates a continuance of this growth during the period herein considered, and estimates of operations have therefore been prepared with this condition in mind.

Probable gas sales have been estimated after an analysis of previous experience of applicant's operations, determining the average British thermal unit sales per active meter for each month of the past two years. From the total estimated British thermal unit sales, total gas requirements on a cubic foot basis were determined for several qualities of service in order that complete knowledge of all conditions be had, and also to assist in making possible the determination of the most advantageous standard to be established.

There is now being brought to Los Angeles an increased supply of natural gas by the Midway Gas Company. Computations herein have been based upon materially greater receipts of natural gas by applicant. The use of more natural gas for reforming will offset to a large extent other increased costs resulting from higher charges for wages and oil and the natural gas itself.

Table IV sets forth a revised estimate of applicant's operations for the year ending June 30, 1922. Operating expenses have been determined after a careful analysis of the testimony and evidence submitted in this proceeding. Applicant estimated that a very largely increased amount of oil would be required for its future needs. In view of the increased quantities of natural gas which will be delivered to Los Angeles by the Midway Gas Company, applicant can obtain a much greater volume of natural gas that it has received heretofore. The use of such additional natural gas will in a large measure tend to offset the increases of other operating expenses. Applicant should be able during the next year to obtain at least 7,935,000 M cubic feet of natural gas. With this quantity of natural gas it is estimated that 920,825 barrels of oil would be required for gas plant purposes for the production of the required amount of 750 British thermal units gas as compared with applicant's estimate for the same quality of gas of about 1,065,000 barrels. This would result in total net costs of $1,611,445 for oil and $1,428,850 for natural gas, which two items constitute 52¼ per cent of the total cost of service, excluding interest charges. Reduction of gas

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quality, when using the natural gas reforming process, results in the necessity of increasing both the quantity of reformed gas and also of oil gas because of increased sendout. The cost per thousand cubic feet is reduced, however, about 2½ cents per M cubic feet, with a reduction of the standard of 50 British thermal units.

In the estimate of reasonable operating expenses set forth in Table IV hereafter there has been allowed in the item of taxes, state taxes at the rate of 7½ per cent upon the gross revenue for the preceding twelve months, normal federal income tax, capital stock tax and city and county franchise tax. Excess profit tax has not been allowed, as this should properly be paid by applicant from its net return. Considerable difference exists between the estimates of the company and Mr. Masser, as to certain of the operating expenses, especially production, operation and maintenance other than oil and gas, certain modifications have been made in the estimates herein in view of the modification in operations proposed.

With the proposed change of gas quality it will become necessary to make minor adjustments of a number of gas appliances. In addition to this applicant should also devote considerably more attention to the continued adjustment of consumers' appliances in order that more universal satisfaction be had of the gas service. This will require the maintenance of a crew of service men, with automobiles and equipment, who will be able to respond promptly to calls and make the necessary adjustment of stoves, heaters, furnaces, etc., especially during the winter period. With the maintenance of a uniform gas quality it is believed this adjustment work will not be found to require an unduly large amount of labor. Allowance of $25,000 additional has herein been made for properly providing for service crews to make necessary adjustments of gas appliances.

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TABLE IV.

LOS ANGELES GAS AND ELECTRIC CORPORATION—SUMMARY OF GAS OPERATIONS: ESTIMATED FOR YEAR ENDING JUNE 30, 1922.

Under Present Rates.

Quality of gas 750 British thermal units.		
Sendout, M cubic feet	10,820,000	
Gas sales, M cubic feet	9,636,500	
Average consumers	178,200	
Gross revenue (present rates)—		
Gas sales at $.7367/mcf average	$7,099,210	
Briquet revenue	245,000	
Miscellaneous	22,000	
		$7,366,210
Operating expenses—		
Production: Oil 920,825 barrels	$1,611,444	
Natural gas, 7,935,000 M cubic feet	1,428,850	
Operations other than oil and gas	360,000	
Maintenance	132,500	
Briquets	225,000	
Total production expense		$3,757,850
Distribution and transmission expense		370,000
Commercial		499,000
General		290,000
Taxes, normal federal income		110,460
Taxes, capital stock tax		8,610
Taxes, state tax		480,000
Uncollectible bills		29,500
Total operating expenses		$5,545,420
Depreciation		340,630
Total operating charges		$5,886,050
Net for return		1,480,160
Rate base		20,164,933
Reasonable return on rate base		1,641,195
Deficit below reasonable return		161,035

Table IV indicates that under existing conditions the rates for the year ending June 30, 1922, should be so increased as to yield applicant additional revenue to the extent of $161,000. This would provide a fair return upon the investment in case gas of 750 British thermal units quality is served and the price of oil of $1.75 per barrel continues. The cost of oil is a large part of the cost of gas, even in the case of the mixed gas service rendered by applicant. It is estimated that applicant will sell during the coming year 9,636,500 M cubic feet of "mixed gas," of which approximately 3,256,000 M cubic feet will be oil gas, requiring 920,825 barrels of oil to produce. A change of 10 cents per barrel in the price of oil would result in a change in operating costs amounting to approximately 1 cent per thousand cubic feet. Changes in the price of oil have been frequent and in several instances not contemplated, with the result that changes in rates had to be made frequently and generally considerable delay occurred.

It is advisable to establish a procedure whereby changes in rates with changes in the price of oil may be made without the delay neces-

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sary with formal hearings. A study of the Public Utilities Act leads to the conclusion that the procedure herein followed, whereby the rates for gas will vary with the price of oil, will be in accordance therewith. We find that a change in the rate for gas of 1 cent per thousand cubic feet for each 10-cent change in the price of oil to be reasonable.

This application was filed with the Railroad Commission November 18, 1920. Applicant has submitted a statement showing that on January 1, 1921, to May 12, 1921, it has purchased 622,922 barrels of oil at a price of $2 per barrel. The rates which are now in effect on applicant's system were fixed on the basis of oil purchased at the price of $1.60 per barrel. In view of the planned method of fixing rates to vary with the price of oil, it is apparent that applicant will not in the future be in a position to recoup the loss in earnings resulting from the delay between an increase in the price of oil and an increase in rates. Under the former method of fixing rates, which required a complete investigation, and where considerable delay occurred between the change in price of oil and either an increase or decrease in rates, this reimbursement would be possible if further reductions in the price of oil occurred. Due to the lag in the time between the filing of this application and the effective date of this decision, applicant's cost of oil exceeded by approximately $249,000 the cost based on the price of $1.60 per barrel, which is the basis of existing rates owing to the price of $2 per barrel continuing from November, 1920, to May 13, 1921. The rates herein fixed are based upon a price of oil of $1.75 to be varied 1 cent per thousand cubic feet for each 10-cent variation in the price of oil above or below that price. In view of these facts we are of the opinion that applicant is entitled to reimbursement for the cost of oil not heretofore covered in the rates as above specified, totaling $249,000. Applicant will be authorized to charge and collect, in addition to the rates herein fixed, a charge of 3 cents per thousand cubic feet on all gas sold until such time as it has been reimbursed for the excess cost of oil purchased since the date of the filing of this application and not heretofore accounted for in rates, not to exceed $249,000.

The city of Pasadena filed a brief with the Commission regarding applicant's estimated operations, it being contended that applicant largely over-estimated the quantity of oil required and under-estimated the probable quantity of natural gas which will be available to it, thereby adding excessively to gas production costs. These matters have been fully considered herein.

Further contention was made relative to the spreading of rates between Los Angeles city and the city of Pasadena, and also charges to be allowed for depreciation. Consideration of operating charges, in

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reference to these allegations, indicates that the city of Pasadena would not be obliged to bear an unfair proportion of them.

The Commission has investigated the actual peak winter demands of a number of applicant's heating consumers. From this study it is apparent that many of these larger heating consumers demand a service of gas which actually costs applicant considerably in excess of the price received for the gas sold. This results from the fact that much of the gas produced during peak periods is made wholly from oil and therefore exceeds the average cost of the mixed gas normally made. Further, in order to render adequate service during peak loads, unduly large production, transmission and distribution facilities are required and the excess capacity of these is idle the major portion of the year, thereby increasing interest charges on this service.

In many eastern cities receiving natural gas which is used for heating purposes, it has been found necessary to resort to the extreme of charging more per thousand cubic feet for gas sold in the large blocks than for the smaller quantities, in order to charge this class of consumer the reasonable cost of the service rendered. The rates herein will be modified to correctly charge for this service.

Applicant has made a special report regarding various classes of consumers and submitted testimony and exhibits indicating that an equal increase of rates applicable to consumers using gas in large quantities, for heating purposes for hotels, apartment houses, etc., and for other commercial purposes, would result in a loss of such business, and thereby require a greater increase of rates by about 5 cents per M cubic feet in the smaller blocks of the schedules. This conclusion does not follow in our opinion when considering the smaller increase herein authorized.

The present rates in effect in the city of Los Angeles were established February 21, 1919, for an 815 British thermal unit mixed gas standard and are as follows:

First	5,000	cubic feet per meter per month	75 cents per M
Next	5,000	cubic feet per meter per month	70 cents per M
Next	15,000	cubic feet per meter per month	65 cents per M
Next	25,000	cubic feet per meter per month	60 cents per M
All over	50,000	cubic feet per meter per month	55 cents per M

The rates in the outlying districts range from 5 cents to 15 cents per M cubic feet higher in the first three blocks of the schedule. At the present time minimum charges for service are 50 cents per meter per month where only one meter is installed on the service line, or 35 cents per meter where four or more meters are placed at the same location on the one service. These minimum charges are under present conditions entirely inadequate to meet the expenses directly chargeable as consumer costs. A knowledge of conditions in Los Angeles and vicinity

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does not indicate that an unfair burden would be placed upon any class of consumers because of an increase of these minimum charges. Consumers occupying apartment houses, where a number of meters are installed on the same service, would not in general be seriously affected by the increase of the minimum charge herein authorized.

Since the establishment of the present rates, and the districts to which they are applicable, there have been certain annexations to the city of Los Angeles, and it is now necessary to revise the limits of District No. 1 so as to include the St. Francis Addition and the Hill Addition, taken into the city by ordinances Nos. 39715 N. S. and 40591 N. S. respectively.

We submit the following form of order:

ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for an order granting authority to increase its rates and charges for gas supplied to its consumers, public hearings having been held, and the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates now charged by Los Angeles Gas and Electric Corporation, in so far as they differ from the rates herein fixed, are not now just and reasonable rates, and that the rates herein established are just and reasonable rates for gas for domestic, commercial and industrial service.

Basing its order upon the foregoing findings of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Los Angeles Gas and Electric Corporation be and is hereby authorized to charge and collect the following rates for gas for domestic and commercial purposes in its several districts, which rates shall be effective for all regular meter readings taken on and after the first day of August, 1921:

SCHEDULE No. 1.

General service.

Applicable to domestic and commercial service for lighting, heating and cooking. Heating quality of gas 750 British thermal units per cubic foot.

Territory.

Applicable to District No. 1, including territory as described under (6), "Description of Special Districts," of preliminary statement.

Rates.

First	5,000 cubic feet per meter per month	75 cents per M cubic feet
Next	15,000 cubic feet per meter per month	70 cents per M cubic feet
Next	30,000 cubic feet per meter per month	65 cents per M cubic feet
All over	50,000 cubic feet per meter per month	60 cents per M cubic feet

The above rates are subject to increase or decrease on the basis of one cent per 1000 cubic feet for each 10 cents increase or decrease, respectively, in the cost of oil above or below the price of $1.75 per barrel, upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

Minimum charge.

(1) Where four or more meters are served in one location on one service for flats and apartments 70 cents per meter per month.

(2) For service other than stated under (1) 80 cents per meter per month.

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SCHEDULE No. 2.

General service.

Applicable to domestic and commercial service for lighting, heating and cooking. Heating quality of gas 750 British thermal units per cubic foot.

Territory.

Applicable to District No. 2, which includes the city of Pasadena and the city of South Pasadena.

Rates.

First	5,000 cubic feet per meter per month----	80 cents per M cubic feet
Next	15,000 cubic feet per meter per month----	70 cents per M cubic feet
Next	30,000 cubic feet per meter per month----	65 cents per M cubic feet
All over	50,000 cubic feet per meter per month----	60 cents per M cubic feet

The above rates are subject to increase or decrease on the basis of one cent per 1000 cubic feet for each 10 cents increase or decrease, respectively, in the cost of oil above or below the price of $1.75 per barrel, upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

Minimum charge.

(1) Where four or more meters are served in one location on one service for flats and apartments 70 cents per meter per month.

(2) For service other than stated under (1) 80 cents per meter per month.

SCHEDULE No. 3.

General service.

Applicable to domestic and commercial service for lighting, heating and cooking. Heating quality of gas 750 British thermal units per cubic foot.

Territory.

Applicable to District No. 3, which includes the city of Alhambra and the city of Huntington Park.

Rates.

First	5,000 cubic feet per meter per month----	85 cents per M cubic feet
Next	15,000 cubic feet per meter per month----	75 cents per M cubic feet
Next	30,000 cubic feet per meter per month----	65 cents per M cubic feet
All over	50,000 cubic feet per meter per month----	60 cents per M cubic feet

The above rates are subject to increase or decrease on the basis of one cent per 1000 cubic feet for each 10 cents increase or decrease, respectively, in the cost of oil above or below the price of $1.75 per barrel, upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

Minimum charge.

(1) Where four or more meters are served in one location on one service for flats and apartments 70 cents per meter per month.

(2) For service other than stated under (1) 80 cents per meter per month.

SCHEDULE No. 4.

General service.

Applicable to domestic and commercial service for lighting, heating and cooking. Heating quality of gas 750 British thermal units per cubic foot.

Territory.

Applicable to District No. 4, which includes the following territory: All portions not included within Districts Nos. 1, 2 and 3, served by the Los Angeles Gas and Electric Corporation, including incorporated territories of San Marino, San Gabriel, Eagle Rock, Vernon, Watts, Inglewood and Monterey Park and territory adjacent to the above.

Rates.

First	5,000 cubic feet per meter per month----	90 cents per M cubic feet
Next	15,000 cubic feet per meter per month----	80 cents per M cubic feet
Next	30,000 cubic feet per meter per month----	70 cents per M cubic feet
All over	50,000 cubic feet per meter per month----	60 cents per M cubic feet

The above rates are subject to increase or decrease on the basis of one cent per 1000 cubic feet for each 10 cents increase or decrease, respectively, in the cost of oil above or below the price of $1.75 per barrel, upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

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Minimum charge.

(1) Where four or more meters are served in one location on one service for flats and apartments 70 cents per meter per month.

(2) For service other than stated under (1) 80 cents per meter per month.

CLASS "A" INDUSTRIAL SERVICE "LIMITED."

Industrial service.

Applicable to industrial service on existing mains having a delivery capacity in excess of the present requirements of consumers now served under domestic and commercial schedules. For purposes where gas fuel is essential to continued operation, such as metal working processes, glass manufacture, special tile manufacture and the preparation of food products, etc. Heating quality of gas 750 British thermal units per cubic foot.

Territory.

Applicable to all districts served by Los Angeles Gas and Electric Corporation.

Rates.

Readiness-to-serve charge	$10 00 per meter per month
Plus consumption charge	57 cents per 1000 cubic feet

The above rates are subject to increase or decrease on the basis of 1 cent per 1000 cubic feet for each 10 cents increase or decrease, respectively, in the cost of oil above or below the price of $1.75 per barrel, upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

Special conditions.

Service under this schedule will be granted subject to the approval of the Railroad Commission of the State of California.

It is hereby further ordered, that Los Angeles Gas and Electric Corporation be authorized to reduce the heating standard of gas served to 750 British thermal units per cubic foot monthly average with a maximum variation of 35 British thermal units per cubic foot above or below this average effective on and after July 1, 1921.

It is hereby further ordered, that in case of a reduction in the price of oil Los Angeles Gas and Electric Corporation shall file within ten days thereafter, an affidavit setting forth the new price of oil paid, and shall thereafter, upon supplemental order of this Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth.

It is hereby further ordered, that, should at any time an increase in price of oil occur, applicant may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increase in rates as determined under the schedules herein set forth.

It is hereby further ordered, that Los Angeles Gas and Electric Corporation be, and it is, hereby authorized to charge and collect in addition to the schedules of rates herein set forth, a charge of 3 cents per thousand cubic feet for all gas sold based on meter readings taken on and after the first day of August, 1921, and until such time as it has collected thereunder the total sum of $249,000 and not thereafter.

It is hereby further ordered, that—

1. Los Angeles Gas and Electric Corporation shall file with the Commission on or before August 1, 1921, the schedules of rates and charges herein set forth.

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2. Los Angeles Gas and Electric Corporation shall file with the Commission, on or before September 20, 1921, and on or before the twentieth day of each month, a statement showing the total gas sales in cubic feet during the preceding calendar month as long as it is collecting the additional charge of 3 cents per 1000 cubic feet herein authorized.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, this twenty-second day of June, 1921.

DECISION No. 9133.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN INCREASE IN AND A GENERAL ADJUSTMENT OF ITS RATES AND CHARGES FOR GAS TO BE SOLD AND DISTRIBUTED BY IT WITHIN THE CITY OF LOS ANGELES AND VARIOUS INCORPORATED AND UNINCORPORATED TERRITORIES, IN THE VICINITY OF LOS ANGELES.

Application No. 6338.

Decided June 22, 1921.

RATE OF RETURN.—Because of competition and scattered districts, applicant unable to earn as profitable rate of return upon its domestic business as competitor.

DEPRECIATION.—Depreciation to be included in operating charges raised from 4 to 6 per cent on sinking fund basis.

DIFFERENTIAL BETWEEN COST OF OIL AND GAS.—Fixed at 1 cent per M cubic feet to 10 cents per barrel in cost of oil.

STANDARD GAS QUALITY—MIXED GAS.—Seven hundred fifty British thermal units per cubic foot monthly average, with a maximum permissible fluctuation of 35 British thermal units above or below established.

OPERATING STATISTICS—REVENUE, EXPENDITURES.—Applicant directed to give more attention to maintenance of distribution facilities and proper adjustment of consumers' appliances. Crew of service men necessary.

Jared How and *Paul Fussell*, for Applicant.

Jess Stephens and *H. Z. Osborne, Jr.*, for City of Los Angeles.

LeRoy M. Edwards, for Southern Counties Gas Company of California.

F. L. Perry, for Cities of Redondo Beach and Manhattan Beach.

BRUNDIGE and ROWELL, *Commissioners*.

OPINION.

Southern California Gas Company, applicant herein, asks authority to increase its rates and charges for the several classes of gas service rendered by it to its various domestic and industrial consumers in the city of Los Angeles and vicinity. Applicant alleges that its rates were first fixed by this Commission by Decision No. 4559 (Opinions and Orders of the Railroad Commission of the State of California, Volume 13, page 742), consideration then being given to the fact that applicant was in active competition with Los Angeles Gas and Electric

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Corporation and that it could not conduct its business successfully if higher rates were charged by it than by its competitor in the same territory, and because of this situation the Railroad Commission established the same rates as were at that time fixed for the Los Angeles Gas and Electric Corporation; that the Railroad Commission subsequently, by its Decision No. 6138, again prescribed for applicant increased rates upon a competitive basis. It is further alleged that this Commission, by Decision No. 4559, tentatively found a value of applicant's investment lower than applicant believes reasonable; that the cost of money for financing improvements to its system has increased materially; and that applicant is informed that Los Angeles Gas and Electric Corporation has applied to the Railroad Commission for authority to increase its gas rates.

Applicant therefore prays that the Commission fix like rates for it as may be granted its competitor, and that the Commission establish a fair rate base predicated upon its investment.

A hearing was held in Los Angeles on April 27, 1921, at which time applicant requested that the rates at present in effect in its Redondo division and in the town of Newhall, and also rates for wholesale service to other distributing utilities be permitted to remain unchanged. The matter was thereupon submitted and is now ready for decision. Evidence was presented in this proceeding in the form of exhibits and testimony relative to applicant's financial operations by its assistant auditor, Mr. L. W. H. Jolliffe, and additional evidence regarding service conditions by Mr. C. D. Bell, superintendent of distribution. It was stipulated that the proceeding be submitted with the understanding that applicant furnish to the Commission, and copies to the city of Los Angeles, data relative to recent capital expenditures and such other information as the Commission's engineers might require for their investigation; and that records in Application No. 1853 and all other records of the Commission and annual reports of applicant be considered in evidence, and, further, that thirty days be allowed within which time the city of Los Angeles might submit briefs or exhibits.

The city of Los Angeles, as well as applicant in its petition, requested that the Commission make a valuation of the company's properties. Testimony of interested parties was to the effect that, because of time required for making such a valuation, and the resulting delay in the fixing of the rates, it would for the present be satisfactory if the Railroad Commission would sufficiently investigate applicant's operations whereby its costs of service, in comparison with similar costs of the Los Angeles Gas and Electric Corporation, might be determined, and if applicant's costs were found to be the greater, a valuation might at this time be omitted.

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Applicant is engaged in supplying natural gas and mixed gas to domestic and industrial consumers in a minor portion of Los Angeles city and adjacent towns and unincorporated territory principally north, west and south of the city. An artificial gas generating plant is operated in Los Angeles and gas manufactured there is mixed with the natural gas received from the Midway and Orange County fields. In addition about a million cubic feet daily of natural gas is obtained from the Salt Lake field and is distributed unmixed in a limited part of applicant's system previously acquired from the Economic Gas Company. Much natural gas which is a surplus over and above the domestic requirements is sold for industrial purposes principally during the summer. Gas is also sold in wholesale to Southern Counties Gas Company of California for redistribution in the latter's Santa Monica Bay and Long Beach districts. The rates for wholesale service and the rates applicable to the Redondo division and to the town of Newhall are not involved by this proceeding.

Service conditions.

Gas service conditions on applicant's system have at times during the past winter been unsatisfactory, as has been the case with other gas utilities in the Los Angeles district, due to the enormously heavy demands for gas. The situation has been closely observed by the Commission's gas engineers, one of whom has been stationed in Los Angeles throughout the winter season. The requirements of industrial consumers purchasing natural gas from applicant for manufacturing purposes were carefully investigated, and only the most essential were permitted to obtain a supply in very restricted amounts. In view of the extreme fluctuations between the summer and winter requirements of domestic consumers and the resulting difficulties in rendering adequate service, it is necessary to maintain strict supervision over the distribution of natural gas in this district.

Due to heavy loads, and the limited capacity of its distribution lines and compressor equipment, applicant has resorted to the practice of increasing the gas pressure and supply to domestic consumers in Los Angeles and Glendale by the introduction of natural gas into lines normally supplying mixed gas, which is the approved class of service rendered to these districts. Testimony of applicant's consumers and evidence before this Commission indicates that the gas quality fluctuates over a wide range and that the service is seriously impaired by this injection of natural gas into the mixed gas lines. This use of natural gas for the purpose of pressure boosting and for increasing the general supply of gas to communities which are normally supplied with mixed gas results in unsatisfactory service, and if increased to any great extent will tend to deplete the general supply of natural gas available

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for the production of a standard quality of mixed gas required by the greater number of domestic consumers located in the Los Angeles district. In view of the unsatisfactory conditions resulting from natural gas pressure boosting and the continuing encroachment upon the natural gas supply of the district by this practice, the Commission must conclude that it should be discontinued. Unless the necessary measures are taken to overcome the fluctuations of gas quality, the rates hereinafter established must be reduced as may be found proper for such variable quality of service.

Standard gas quality.

The present standard in the city of Los Angeles for quality of mixed gas distributed there is 815 British thermal units per cubic foot. The natural gas supplied on the Economic division of applicant's system is of somewhat lower heating value, being about 770 British thermal units per cubic foot, as shown by applicant's annual report. Natural gas of about 1000 British thermal units or more, from the eastern and northern oil fields is supplied to domestic consumers in the outlying territory. However, the large portion of applicant's domestic business is the service of mixed gas to consumers in Los Angeles city and adjacent districts.

Evidence before this Commission, and the results of a thorough investigation of operating conditions, both of applicant and its competitor, Los Angeles Gas and Electric Corporation, indicates that it is not practicable or possible to maintain constant within reasonable limits during the winter periods, the present standard for gas quality of 815 British thermal units per cubic foot. After careful study of this matter it has been found that a standard of 750 British thermal units per cubic foot monthly average, with a maximum permissible fluctuation of 35 British thermal units above or below, except during times of emergency, is proper for Los Angeles Gas and Electric Corporation and will therefore be established for applicant herein.

Operating statistics, revenues and expenses.

Because of change of gas quality and the difficult service conditions in the Los Angeles city district we are of the opinion that applicant should devote considerable more attention to the maintenance of its distribution facilities directly involved in the rendering of service, and the proper adjustment of consumers' appliances, in order that satisfactory and efficient service be rendered. This work will require the employment of a crew of service men, with necessary equipment, who may respond promptly, especially during the winter, to complaints demanding the adjustment of stoves, heaters, furnaces and other gas appliances, as well as service lines.

Applicant's system supplies a widely scattered group of communities, part of the business being in active competition with the Los Angeles

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Gas and Electric Corporation, a much larger utility. Because of this competition and the higher cost of serving scattered districts, applicant has been unable to earn as profitable a rate of return upon its domestic business under equal rates, as has been enjoyed by Los Angeles Gas and Electric Corporation.

Table No. 1 sets forth revised operating statistics of Southern California Gas Company for the year 1920, including domestic, wholesale and industrial operations, together with an estimate of operations for the year ending April 30, 1922, under present rates and quality of gas, based largely on applicant's Exhibit No. 2. Modifications have been made in some of applicant's figures presented in this tabulation, that they may agree with this Commission's methods of considering certain of these items.

TABLE NO. 1.

SOUTHERN CALIFORNIA GAS COMPANY—SUMMARY OF OPERATING STATISTICS, REVENUE AND EXPENSES FOR YEAR 1920, AND ESTIMATE FOR YEAR ENDING, APRIL, 30, 1922.

Based Upon Present Rates, Los Angeles District.

	1920	1921-22
Quality of gas, British thermal units	815	815
Mean active consumers	42,450	49,673
Domestic gas sales, M cubic feet	2,325,595	2,803,500
Industrial gas sales, M cubic feet	2,140,482	2,919,500
Wholesale gas sales, M cubic feet	2,593,598	2,889,000
Revenue—		
Domestic gas sales	$1,657,861	$1,928,485
Industrial gas sales	571,729	911,850
Wholesale	546,252	622,719
By products	9,997	----------
Miscellaneous	25,421	25,000
Deductions for refunds	—3,126	—3,000
Total revenue	$2,808,133	$3,485,054
Expenses—		
Production	$1,330,578	$2,038,138
Distribution	213,522	374,715
Commercial	138,115	178,151
General	139,457	155,758
By product	9,654	----------
Taxes*	188,866	220,105
Uncollectible bills	6,696	7,714
Total operating expenses	$2,026,888	$2,974,581
Depreciation	124,744	177,453
Total operating charges	$2,151,632	$3,152,034
Net for return	$656,501	$333,020
Rate base (applicant's estimate)	$6,183,400	$8,169,211
Per cent of return	10.6%	4.07%

*Estimated amount chargeable to Los Angeles district.

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It is to be noted that a material part of applicant's revenue is derived from the sale of industrial and wholesale gas. This business is purely incidental to applicant's domestic gas operations which must be acknowledged as being the principal enterprise in which applicant is engaged. The industrial business has always been subject to discontinuance or reduction in favor of the domestic requirements which are continually increasing, and it can not therefore be considered as a permanent and reliable source of income. The major portion of the industrial sales are made in the summer period when it is possible to utilize the then existing surplus natural gas and excess capacity of pipe lines for the distribution of industrial gas. In the winter, the tremendous increase of the domestic load demands practically all of the available natural gas and the line capacity. Investigation shows that the net revenue which applicant would derive from domestic gas sales only, would show a very low rate of return, substantially less than that earned by its competitor, the Los Angeles Gas and Electric Corporation. In view of this fact it appears reasonable to grant applicant's prayer that it be allowed similar rates as are this day being established for Los Angeles Gas and Electric Corporation for similar service.

Applicant has in the past computed depreciation upon its operative property on a 4 per cent sinking fund basis. After a consideration of applicant's present operating conditions and its financial situation we are of the opinion that hereafter the depreciation to be included in operating charges should be calculated on a 6 per cent sinking fund basis.

The market price of oil, used in gas manufacture, has, since the submission of this application, been reduced from $2 per barrel to $1.75 per barrel, and it is not improbable that further changes of price, either up or down, may be experienced in the near future. In view of this condition it appears proper that measures be taken to protect both the utility and its consumers in the event of further material changes of oil prices. Under methods heretofore followed by the Commission the delay resulting from the necessity of holding formal hearings has in a number of cases caused serious losses of earnings to gas companies. It is desirable to establish a procedure whereby changes in gas rates, with changes in oil prices, may be made without the delay consequent to formal proceedings. A study of the Public Utilities Act, relative to the matter, indicates such procedure to be in accordance with the act. From an investigation of the costs to applicant of "mixed gas" as served by it, it has been determined that a change of 10 cents per barrel in the price of oil would result in a change in operating costs of approximately 1 cent per thousand cubic feet of "mixed gas" produced. Because of the fact that it has a special arrangement for the purchase of oil,

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dependent upon the production of its own wells, applicant does not usually pay the same price for oil as is paid by Los Angeles Gas and Electric Corporation. Inasmuch as the latter company is subject to similar changes as applicant, in operating costs with changes of oil prices, and further, that the rates hereinafter established are based upon competitive conditions and are similar to those being fixed for the Los Angeles Company, we are of the opinion that applicant's rates for "mixed gas" should also be increased or decreased by the amount of 1 cent per thousand cubic feet for corresponding changes of 10 cents per barrel in the price of oil as paid by Los Angeles Gas and Electric Corporation, as hereinafter provided in the accompanying order.

Rates.

The rates now in effect in the city of Los Angeles for the service of 815 British thermal units mixed gas are as follows:

First	5,000 cubic feet per meter per month----	75 cents per M cubic feet
Next	5,000 cubic feet per meter per month----	70 cents per M cubic feet
Next	15,000 cubic feet per meter per month----	65 cents per M cubic feet
Next	25,000 cubic feet per meter per month----	60 cents per M cubic feet
All over	50,000 cubic feet per meter per month----	55 cents per M cubic feet

Rates for mixed gas in Districts Nos. 2 and 3 are slightly higher in the upper blocks and lower in large blocks. The minimum charges are 35 cents per meter per month where four or more meters are set at the same location on one service line, or 50 cents per meter per month where only one meter is set on the service line. These minimum charges are now far inadequate to properly provide for expenses directly chargeable as consumer costs. Consideration of conditions existing in the districts served by applicant indicate that these charges should be increased, making them more commensurate with the actual expenses involved in the service and similar charges in effect on the systems of other utilities. These minimum charges will therefore be increased as set forth in the accompanying rate schedules.

We submit the following form of order:

ORDER.

Southern California Gas Company having applied to the Railroad Commission for an order granting authority to increase its rates and charges for gas supplied to its consumers, a public hearing having been held and the matter having been submitted and being now ready for decision:

The Railroad Commission hereby finds as a fact that the rates now charged by Southern California Gas Company as set forth in Schedules A–1, A–4, A–5, A–6 and A–8, in so far as they differ from the rates herein fixed, are not just and reasonable rates, and that the rates herein established are just and reasonable rates for gas sold for domestic,

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commercial and industrial service as hereinafter provided for in the accompanying schedules.

Basing its order upon the foregoing findings of fact and other findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Southern California Gas Company be and is hereby authorized to modify its present Schedules Nos. A–1, A–4, A–5 and A–6, and to charge and collect the following rates for gas as set forth in the accompanying schedules for domestic, commercial and industrial purposes, in the several districts, which rates shall be effective for all regular meter readings taken on and after the first day of August, 1921.

It is hereby further ordered, that Schedule No. A–8 be discontinued, and that District No. 4 be modified to include consumers now served under Schedule A–8, effective for meter readings taken on and after August 1, 1921.

SCHEDULE NO. A-1.

LOS ANGELES DIVISION.

General service—Mixed gas.

Applicable to the service of 750 British thermal units gas for domestic and commercial lighting, heating and cooking service.

Territory.

Applicable to Districts Nos. 1 and 1-A.

Rates.

First	5,000 cubic feet per meter per month	75 cents per M cubic feet
Next	15,000 cubic feet per meter per month	70 cents per M cubic feet
Next	30,000 cubic feet per meter per month	65 cents per M cubic feet
All over	50,000 cubic feet per meter per month	60 cents per M cubic feet

The above rates are subject to increase or decrease on the basis of 1 cent per 1000 cubic feet for each 10 cents increase or decrease, respectively, in the cost of oil as may from time to time be authorized on the system of the Los Angeles Gas and Electric Corporation, subject to the approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

Minimum charge.

(1) For flats and apartments where four or more meters are served from one service in one location 70 cents per meter per month.

(2) All service other than under (1), 80 cents per meter per month.

SCHEDULE NO. A-4.

LOS ANGELES DIVISION.

General service—Mixed gas.

Applicable to the service of 750 British thermal units gas for domestic and commercial lighting, heating and cooking service.

Territory.

Applicable to District No. 2, which includes the following territory: City of Glendale.

Rates.

First	5,000 cubic feet per meter per month	80 cents per M cubic feet
Next	15,000 cubic feet per meter per month	70 cents per M cubic feet
Next	30,000 cubic feet per meter per month	65 cents per M cubic feet
All over	50,000 cubic feet per meter per month	60 cents per M cubic feet

The above rates are subject to increase or decrease on the basis of 1 cent per 1000 cubic feet for each 10 cents increase or decrease, respectively, in the cost of oil as may from time to time be authorized on the system of the Los Angeles Gas

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and Electric Corporation, subject to the approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

Minimum charge.

(1) For flats and apartments where four or more meters are served from one service in one location 70 cents per meter per month.

(2) All service other than under (1), 80 cents per meter per month.

SCHEDULE NO. A-5.

General service—Mixed gas.

Applicable to the service of 750 British thermal units gas for domestic and commercial lighting, heating and cooking service.

Territory.

Applicable to District No. 3 which includes the following territory:

(*a*) City of Eagle Rock.
(*b*) City of Beverly Hills.
(*c*) That portion of the city of Los Angeles not included in District No. 1.
(*d*) All incorporated and unincorporated territory served by the Southern California Gas Company not included in District No. 2.

Rates.

First	5,000 cubic feet per meter per month----	85 cents per M cubic feet
Next	15,000 cubic feet per meter per month----	75 cents per M cubic feet
Next	30,000 cubic feet per meter per month----	65 cents per M cubic feet
All over	50,000 cubic feet per meter per month----	60 cents per M cubic feet

The above rates are subject to increase or decrease on the basis of 1 cent per 1000 cubic feet for each 10 cents increase or decrease, respectively, in the cost of oil as may from time to time be authorized on the system of the Los Angeles Gas and Electric Corporation, subject to the approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

Minimum charge.

(1) For flats and apartments where four or more meters are served on one service in one location 70 cents per meter per month.

(2) All service other than under (1), 80 cents per meter per month.

SCHEDULE NO. A-6.

Los Angeles Division.

General Service—Natural gas.

Applicable to domestic and commercial service for lighting, heating and cooking.

Territory.

Applicable to District No. 4.

Rates.

First	5,000 cubic feet per meter per month----	85 cents per M cubic feet
Next	10,000 cubic feet per meter per month----	75 cents per M cubic feet
Next	35,000 cubic feet per meter per month----	65 cents per M cubic feet
All over	50,000 cubic feet per meter per month----	60 cents per M cubic feet

Minimum charge.

(1) For flats and apartments where four or more meters are served on one service in one location, 70 cents per meter per month.

(2) All service other than under (1), 80 cents per meter per month.

CLASS "A" INDUSTRIAL SERVICE "LIMITED."

Industrial service.

Applicable to industrial service of natural gas on existing mains having a delivery capacity in excess of the present requirements of consumers now served under domestic and commercial schedules. For purposes where gas fuel is essential to continued operation, such as metal working processes, glass manufacture, special tile manufacture and the preparation of food products, etc.

Territory.

Applicable to all districts served by Southern California Gas Company.

Rate.

Readiness-to-serve charge ----------	$15 00 per meter per month
Plus, consumption charge ----------	40 cents per 1000 cubic feet

Special conditions.

Service under this schedule will be granted only subject to the approval of the Railroad Commission of the State of California.

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It is hereby further ordered, that Southern California Gas Company be authorized to reduce the heating value standard of mixed gas served to 750 British thermal units per cubic foot monthly average with a maximum variation of 35 British thermal units per cubic foot above or below this average effective on and after July 1, 1921.

It is hereby further ordered, that in case of a reduction in the price of oil, Southern California Gas Company shall file, within ten days thereafter, an affidavit setting forth the new price of oil paid, and shall thereafter, upon supplemental order of this Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth.

It is hereby further ordered, that should at any time an increase in price of oil occur, applicant may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increase in rates as determined under the schedules herein set forth.

It is hereby further ordered, that Southern California Gas Company shall file with the Commission on or before August 1, 1921, the schedules of rates and charges herein set forth.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of June, 1921.

DECISION No. 9134.

IN THE MATTER OF THE APPLICATION OF PORT COSTA WATER COMPANY FOR AN ORDER AUTHORIZING IT TO RENEW NOTES.

IN THE MATTER OF THE APPLICATION OF PORT COSTA WATER COMPANY, A CORPORATION, FOR PERMISSION TO BORROW MONEY AND ISSUE ITS PROMISSORY NOTE THEREFOR PAYABLE MORE THAN ONE YEAR AFTER DATE, FROM SAN FRANCISCO SAVINGS AND LOAN SOCIETY, A BANKING CORPORATION; AND TO MAKE, EXECUTE AND DELIVER FOR THE BENEFIT OF SAID BANKING CORPORATION A DEED OF TRUST UPON ITS PROPERTIES, TOGETHER WITH THE PROPERTIES OF PORT COSTA DEVELOPMENT COMPANY, A CORPORATION, AND MOUNT DIABLO DEVELOPMENT COMPANY, A CORPORATION, SECURING THE PAYMENT OF SAID NOTE.

Supplemental Applications Nos. 3039 and 5145.

Decided June 22, 1921.

Goodfellow, Eells, Moore and Orrick, by *Hugh Goodfellow*, for Applicant.

BENEDICT, *Commissioner*.

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FIRST SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 4484, dated July 27, 1917, authorized Port Costa Water Company to join with the Port Costa Development Company and Mount Diablo Development Company in the execution and delivery of a joint and several promissory notes for $385,000 payable to the San Francisco Savings and Loan Society, or order, six years after its date with interest at the rate of 6 per cent per annum and to execute a deed of trust to secure the payment of the note; and

Whereas, the Railroad Commission by Decision No. 6941, dated December 13, 1919, authorized Port Costa Water Company to join with the Port Costa Development Company and Mount Diablo Development Company in the execution and delivery of a joint and several promissory notes for $100,000 payable to the San Francisco Savings and Loan Society, or order, on July 27, 1923, with interest at the rate of 6 per cent per annum and to execute a deed of trust to secure the payment of said note; and

Whereas, applicant reports that it has paid $34,074.53 on the $385,000 note, leaving $350,925.47 unpaid, and that it has paid $17,000 on the $100,000 note, leaving $83,000 unpaid; and

Whereas, applicant further reports that it has been negotiating with the San Francisco Savings and Loan Society and that satisfactory arrangements have been made whereby applicant, if authorized by the Commission, will assume the payment of $300,000 of the aggregate balance due on the above-mentioned notes and will be relieved of further liability on said notes; and

Whereas, applicant asks permission to assume such liability and to extend the maturity of the notes to October 1, 1926; and

A hearing having been held and the Commission being of the opinion that applicant's request should be granted;

It is hereby ordered, that the order in Decision No. 4484, dated July 27, 1917, in Application No. 3039, and the order in Decision No. 6941, dated December 13, 1919, in Application No. 5145, be and they are hereby modified so as to permit Port Costa Water Company to assume the payment of $300,000 of the balance due on the notes issued under the authority granted in said decisions and to extend the maturity of said notes to October 1, 1926.

It is hereby further ordered, that Port Costa Water Company be and it is hereby authorized to take such steps as may be necessary to cause the extension of the maturity of the notes and modifications of the notes and deeds of trust referred to in this application.

It is hereby further ordered, that the order in Decision No. 4484, dated July 27, 1917, and the order in Decision No. 6941, dated December

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13, 1919, shall remain in full force and effect except as modified by this first supplemental order.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of June, 1921.

DECISION No. 9136.

IN THE MATTER OF THE APPLICATION OF BAY CITIES TRANSPORTATION COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT MOTOR TRUCKS BETWEEN ALVISO AND SAN JOSE, PALO ALTO, MOUNT EDEN, DECOTO AND INTERMEDIATE POINTS.

Application No. 5453.

IN THE MATTER OF THE APPLICATION OF BAY CITIES TRANSPORTATION COMPANY, A CORPORATION, FOR AUTHORITY TO SELL AND TRANSFER ITS OPERATIVE RIGHTS IN AUTOMOTIVE FREIGHT SERVICE BETWEEN ALVISO AND SAN JOSE, PALO ALTO, MOUNT EDEN, DECOTO AND INTERMEDIATE POINTS, TO E. V. RIDEOUT COMPANY, A CORPORATION.

Application No. 6099.

Decided June 23, 1921.

BY THE COMMISSION.

ORDER CANCELLING OPERATIVE RIGHTS.

Under date December 8, 1920, this Commission issued its order to show cause why the certificate of public convenience and necessity granted to the Bay Cities Transportation Company on April 26, 1920, by Decision No. 7486 on Application No. 5453 to operate a motor truck service between Alviso and San Jose, Palo Alto, Mount Eden, Decoto and intermediate points should not be revoked.

The history of the proceedings is as follows:

Under date March 15, 1920, the Bay Cities Transportation Company made application to the Railroad Commission to operate a freight automotive truck service between Alviso and San Jose, Palo Alto, Mount Eden, Decoto and intermediate points. This application was given No. 5453 and after a hearing a certificate of public convenience and necessity was granted by Decision No. 7486, dated April 26, 1920.

In a communication addressed to the Commission, dated May 15, 1920, the Bay Cities Transportation Company accepted the authority granted in Decision No. 7486, Application No. 5453; under date August 6, 1920, the Bay Cities Transportation Company requested an extension of sixty days within which to commence operation of service; by an order dated August 23, 1920, extension of time was granted to and including

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October 31, 1920; under date September 8, 1920, the Bay Cities Transportation Company filed an application (No. 6099) for authority to sell its operative rights to the E. V. Rideout Company, and by Decision No. 8109, dated September 16, 1920, this Commission granted authority to transfer these operative rights; under date October 19, 1920, in Application No. 6227, the E. V. Rideout Company sought authority to transfer all of its operative rights under the certificate originally held by the Bay Cities Transportation Company (Application No. 5453) to the Highway Transport Company; under date November 17, 1920, by Decision No. 8352, the Commission denied the application of the E. V. Rideout Company to transfer to the Highway Transport Company upon the grounds that neither of the holders of the certificate granted by Decision No. 7486 in Application No. 5453 had complied with the conditions imposed by the opinion and order therein, inasmuch as no regular service had ever been performed by them between Alviso and San Jose, Palo Alto, Decoto, Mount Eden and intermediate points and that, therefore, the certificate should be canceled; under date November 20, 1920, the E. V. Rideout Company and the Highway Transport Company petitioned for a rehearing in Application No. 6227 upon the grounds that the E. V. Rideout Company had not had opportunity to exercise its privileges under the provisions of section 5 of the Automobile Stage and Transportation Act, chapter 213, Statutes 1917, as amended by chapter 280, Statutes 1919. Following receipt of this application the Commission entered its order to show cause, dated December 8, 1920, heretofore referred to. This order was set for hearing before Examiner Geary at San Francisco December 14, 1920, but upon request of the attorneys for the E. V. Rideout Company and the Highway Transport Company was postponed to December 28, 1920, and upon further request from the interested attorneys was removed from the calendar.

The Commission is now advised that the E. V. Rideout Company and the Highway Transport Company are no longer interested in the certificate of public convenience and necessity granted under Application No. 5453 to the Bay Cities Transportation Company, and the record shows that no service was ever performed in compliance with this certificate.

We are of the opinion, and believe that the conclusions reached in Decision No. 8352, Application No. 6227, were correct, and now that all of the interested parties having been given full opportunity to appear before the Commission and having failed to respond;

It is hereby ordered, that the operative rights heretofore granted in Application No. 5453, Decision No. 7486, be and the same are hereby declared to be null and void.

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It is further ordered, that the order to show cause is hereby dismissed.

Dated at San Francisco, California, this twenty-third day of June, 1921.

DECISION No. 9139.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES ICE AND COLD STORAGE COMPANY FOR AN INCREASE IN RATES.

Application No. 6007.

IN THE MATTER OF THE APPLICATION OF MERCHANTS ICE AND COLD STORAGE COMPANY FOR AN INCREASE IN RATES.

Application No. 6043.

IN THE MATTER OF THE APPLICATION OF NATIONAL ICE AND COLD STORAGE COMPANY FOR AN INCREASE IN RATES.

Application No. 6052.

Decided June 24, 1921.

JURISDICTION.—The Commission has jurisdiction only over what relates to food warehousemen and food commodities, under Food Warehousemen Act; Secs. 1, 2 and 3.

RATES, CHARGES, RULES AND REGULATIONS.—Should be substantially uniform, as the business naturally tends to monopoly and is competitive only in degree.

INVESTMENT, VALUATION, RATE BASE, REVENUES AND EXPENSES.—Based on segregation of applicants' businesses.

DEPRECIATION.—Depreciation annuity, when operating expenses include cost of renewals, would result in duplication of expense estimate.

RATE COMPARISONS.—Rates in other cities, under different storage and climatic conditions, not just comparison.

SEASONAL RATES.—Recommendations made that they be permanently abolished.

Oscar Mueller, for Los Angeles Ice and Cold Storage Company.

George Beebe and *F. A. Stevenson*, for Merchants Ice and Cold Storage Company.

W. J. Varicl, for National Ice and Cold Storage Company.

Rex Hardy, for Klein-Simpson Fruit Company et al.

Charles Clifford, for Rivers Brothers et al.

H. Z. Osborne, Jr., and *William P. Mealey*, for Board of Public Utilities, City of Los Angeles.

Jess E. Stephens, for City of Los Angeles.

MARTIN, *Commissioner*.

OPINION.

These three applications, affecting as they do a large part of the cold storage business in the city of Los Angeles, are consolidated into one proceeding.

The Los Angeles Ice and Cold Storage Company (hereinafter referred to as the Los Angeles Company), Merchants Ice and Cold Storage Company of Los Angeles (hereinafter referred to as the Merchants Company), and The National Ice and Cold Storage Company of California (hereinafter referred to as the National Company), are each engaged in the business of storing goods and in the manufacture and

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sale of ice. Each of them is a "food warehouseman" and a public utility, as defined in sections 2 and 3 of the Food Warehousemen Act, effective July 22, 1919. All have complied with the statute by publishing and filing with this Commission schedules of rates and charges, together with rules and regulations and, with the exception of a few minor adjustments, the rates originally filed are still in effect.

The original and amended applications of the three applicants are substantially identical and the revised rate schedules and rules the Commission is asked to authorize involve increases on practically all commodities covered by applicants' schedules as set out in detail in the exhibits accompanying the original petitions.

In support of the petitions, applicants in the original applications submitted statements of operating expenses and revenues for various periods. The allegation is made that in the case of neither company do the net earnings from the public utility portion of the business leave an adequate return on the investment or value of the plant after all proper deductions are made from gross revenue for operating and other expenses.

Formal protests against granting the applications were filed on behalf of the Klein-Simpson Food Company and sixteen other firms storing food commodities and merchandise in Los Angeles. These protests generally challenge the accuracy of applicants' claims as to investment, segregation of revenues and expenses as between the public utility and nonpublic utility portion of the business and the figures submitted by applicants with reference to the results of the proposed tariff changes. The city of Los Angeles, through the Board of Public Utilities, appeared in opposition to the granting of these applications.

Hearings were held in Los Angeles and numerous exhibits were submitted on behalf of the applicants, the protestants, and the city of Los Angeles. The Commission's engineering department also filed, in the form of exhibits, its valuation reports and other data bearing upon the general investigation of rate bases, segregation of revenue and expense, estimates of depreciation, allowances and other features of the proceeding. Oral testimony was directed largely to the support or criticism of the various exhibits presented. It was agreed that all testimony and all exhibits submitted in any one application, and in so far as such testimony or exhibits have a bearing on general matters or facts applicable to the consolidated proceeding, should be considered as of evidence in each of the three applications.

All of the necessary testimony and exhibits are now before the Commission in the required form, briefs have been submitted on behalf of the interested parties and the matter is ready for a decision.

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Character of applicants' business.

Each of the applicants is the owner of lands, buildings, and machinery devoted to the manufacture and sale of ice and to the cold storage of perishable and nonperishable foodstuffs and other goods. The ice manufactured and stored by applicants is, in part, used in applicants' own cold storage business and, in part, is sold either wholesale or retail.

The Los Angeles Company, in addition to its ice and cold storage business, manufactures and sells various beverages.

Under sections 1, 2, and 3 of the Food Warehousemen Act, this Commission has jurisdiction only over that portion of applicants' business falling within the definition of the term "food warehouseman," as given in section 2 of the act, and over the storage of "food commodities," as that term is construed in section 1 of the act. It is apparent, therefore, that as to a large part of applicants' business the Commission has no jurisdiction. In order to reach a decision, however, on the matters properly before the Commission, it is necessary that proper segregation of property, investment, values, revenues and expenses to the various public utility and nonpublic utility branches of the business be made, and a considerable portion of the exhibits and testimony in these proceedings relate to this phase of the matter.

The cold storage business naturally tends to monopoly and is competitive only in degree. It is agreed by applicants that cold storage rates, charges, rules and regulations, as applying to Los Angeles and as between the applicants now before the Commission, should be substantially uniform. The proposed tariffs filed by applicants bear out this contention and Mr. W. G. Eisenmayer, the vice president and general manager of the Los Angeles Company, testified to this effect.

I am of the opinion that this conclusion is sound and that varying rates for identical cold storage service in the same community would result in unjustifiable discrimination. To proceed on a contrary view would, in time, result in the elimination of the concern charging the higher rate. There is room and there should remain room for a healthy competition between the companies in the matter of the most convenient and most efficient service, and on that basis several companies will be able to continue in the business. Section 12 of the act creating the cold storage companies a public utility clearly recognizes this condition when it states:

> The legislature hereby further declares that food warehousemen, as defined in section two of this act, are engaged in a business, tending to monopoly, and that by reason of such monopolistic tendency and by reason of its vital connection with the distribution of public necessities, such business is clothed with a public interest and subject to public regulation and control for the public welfare as a public utility, as in this act provided.

The problem before the Commission is, therefore, to determine fair and reasonable rates with the factors of investment, valuations, revenues and expenses different for each applicant.

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Present rates and effect of proposed rates.

The tariffs and rules under which applicants are now operating are substantially the tariffs and rules existing on July 22, 1919, when this Commission's control under the Food Warehousemen Act became effective. During the period of the war and between the dates of September 1, 1918, and February 22, 1919, the United States Food Administration exercised a measure of control over the cold storage business and established rules and regulations intended to aid in the efficient production, distribution, and conservation of food products. The Food Administration also fixed *maxima* storage rates. It is to be noted, however, that there was no exclusive and definite rate fixing by the Food Administration and that the storage companies under its control were free to charge rates lower than the *maxima* established by the federal government. In the case of the storage companies, applicants in this proceeding, the rates in effect prior to the United States Food Administration's control had been lower than the *maxima* permitted by the administration. Applicants, however, took advantage of the *maxima* and substantially raised all of their rates to conform to the highest permitted rates.

Between February 22, 1919 (when the Food Administration's control terminated) and July 22, 1919 (when this Commission's control began), there was an interim during which certain adjustments and changes in rates and regulations were made by applicants, these changes generally tending towards an increase in charges. During this period, also, applicants discontinued the so-called season rates, this form of rates having been criticised and in a measure condemned by the Food Administration as opposed to the principles which should govern in the matter of storage of foodstuffs during the crisis of the war.

It is a fact, therefore, that the rates now in effect not only represent the maximum rates permitted by the federal government during the war but are, generally, in excess of those maximum charges.

It is now proposed by applicants to further advance the rates and to make changes in rules and regulations which, in the majority, also constitute an increase in cold storage charges. The proposed changes range, in the main, on first month's storage from 20 to 60 per cent higher than the existing rates. For the succeeding months proposed charges are fewer in number, involving less radical increases and including a number of reductions. The reductions, however, applying as they do only after termination of the first month's storage, are of little moment from a revenue standpoint.

A number of cancellations and adjustments are also proposed in applicants' Exhibit "A" including new rates and regulations not shown in the present schedules. A number of the proposed changes involve no increase but are designed to clarify and place the tariffs on a better

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working basis, and this to the extent that it places no increased burdens on storers seems desirable and requires no specific authority of this Commission beyond the provisions of section 5 of the Food Warehousemen Act and the Commission's tariff regulations.

Rates now in effect as to a number of leading commodities would, under the application, take increases in accordance with the following percentages, variations being governed by tonnage, time, kind of packages and character of storage.

Butter	14	to 33⅓	per cent
Eggs	15	to 66⅔	per cent
Fruit—citrus	60	to 66⅔	per cent
Fruit—deciduous (in standard boxes)	18	to 22	per cent
Meat	14	to 60	per cent
Onions	20	to 25	per cent
Potatoes	33⅓	to 43	per cent
Poultry	10	to 50	per cent
Vegetables	20	to 60	per cent

In justification of the higher scale of rates requested by applicants, it is asserted in the petitions that a careful check has been made of the cold storage business of each utility for the year 1919, which, when applied to present conditions and immediate future prospects, demonstrates the inadequacy of the existing schedules. It becomes important, therefore, to determine as accurately as possible whether applicants' claims with reference to an adequate return are substantial and whether the increases sought are justified under the circumstances that should be controlling in a public utility rate case.

Investment, valuation, rate base, revenues, and expenses.

The three applicants claim that the revenues from the cold storage business are not adequate to allow for a fair return after proper operating expenses and taxes have been paid. They have submitted statements intended to show the valuation of the property devoted to the cold storage business and investment in such business and they have also furnished statements showing revenues and expenses..

There is not at present in existence a uniform bookkeeping classification for this class of public utilities, such as the Commission has promulgated for other utilities under its jurisdiction. We have, therefore, a condition where not only the methods of bookkeeping are different for each of the three applicants, but also where the segregation between the different branches of each applicant's business is more or less arbitrary and a matter of conjecture. This is true of all important divisions of applicants' accounts, such as capital accounts, revenue and expense accounts and balance sheet accounts.

It was amply demonstrated during the course of these hearings that there was a lack of a consistent accounting system and, therefore, difficulty in reaching an agreement on the operating cost figures between

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petitioners and protestants and between petitioners and the Commission's staff.

Investment, revenues and expenses, involving cold storage alone, as covered by applicants' exhibits for the year 1919, were stated to be as follows:

	Los Angeles Ice and Cold Storage Company	Merchants Ice and Cold Storage Company	National Ice and Cold Storage, Los Angeles plant
Investment	$1,036,144 52	$200,000 00	$379,435 16
Revenues	224,452 12	49,681 46	64,286 92
Expenses	149,797 94	43,351 00	44,894 68
Net operating revenue	$74,654 18	$6,330 46	$19,392 24
Deduction for depreciation	36,113 40	10,850 00	8,379 68
Profit or loss	—$38,540 78	—$4,519 54	—$11,012 56
Rate of return (before "deduction for depreciation)	7.2%	3.1%	5.1%

Other data was submitted tending to show substantially increased operating expenses for certain months of 1920, as compared with similar months in 1919. In the amended applications filed subsequently, the valuations of applicants' cold storage properties were shown as follows:

Los Angeles Company (Seventh and Fourth Street plants)—	
Property value as of September 1, 1920 ("appraised value of property—cold storage"):	
Buildings, machinery and equipment	$722,267 52
Real estate	313,877 00
Total	$1,036,144 52
National Company (Los Angeles plant)—	
Property value as of July 31, 1920 ("property replacement value"):	
Real estate, buildings, machinery, equipment	$370,442 00
Working capital required	25,000 00
Total	$395,442 00
Merchants Company—	
Property value as of October 15, 1920:	
Reproduction cost less depreciation (using present day unit costs) exclusive of real estate	$243,737 00

The Commission instructed its engineering department to check applicants' inventories and appraisals and to make its own independent valuation to the extent deemed necessary.

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Separate reports were introduced by the department as exhibits for each of applicants' property and the following totals for the cold storage property were found:

Los Angeles Company—
Operative property—Inventory as of September 1, 1920:

	Historical reproduction cost	Reproduction cost less depreciation
Seventh Street plant	$409,790 00	$329,194 00
Fourth Street plant	585,936 00	486,255 00
	$996,726 00	$815,449 00

NOTE.—These figures are exclusive of "ice storage rooms." Certain rooms are used for the storage of ice and it would appear that this storage space should not be charged to the cold storage business but to the ice business.

National Company—
Operative property—Inventory as of September 20,

	Historical reproduction cost	Reproduction cost less depreciation
1920	$278,849 00	$210,525 00

Merchants Company—
Operative property—Inventory as of October 15, 1920 $280,890 00 $200,950 00

The valuation figures taken from the Commission's exhibits are based upon a segregation of applicants' property as made by our engineers between the various branches of the business. This segregation differs from that adopted by the applicants themselves. It is to be noted that in each instance our own engineers assign a larger proportion of applicants' property to the cold storage business than do the applicants themselves. Whether or not we adopt the method of segregation of our engineers, or that of the applicants, becomes an element in the determination of a rate base.

A careful analysis was made of revenues and expenses and an effort was made to ascertain for each company the following figures for a period of at least one year preceding the application:

(*a*) Total operating revenue covering all of the company's business.

(*b*) That portion of the operating revenue which is applicable to the business under consideration in the application.

(*c*) Total operating expense, not including depreciation, taxes and interest, or other fixed charges, for all of the company's business.

(*d*) That portion of the operating expense, not including depreciation, taxes and interest, or other fixed charges, which is applicable to the business under consideration in the application.

(*e*) All other expense, not covered under (*c*), for all of the company's business.

(*f*) That portion of other expense not covered under (*d*), which is applicable to the business under consideration in the application.

Owing to the lack of satisfactory accounting methods, it was impossible to ascertain all of this data with a fair degree of accuracy and it is necessary to have recourse to approximations. The figures supplied by the companies showing revenues and expenses and the derived rates of return, as summarized above, can not be accepted as

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reliable. It developed that included in operating expenses are items of interest on borrowed money, items properly chargeable to profit and loss, and that segregations were made between different branches of the business that do not seem reasonable.

The Los Angeles company is the largest of the three storage utilities, having a storage revenue approximately twice as large as the other two companies combined. The investment, according to the company's figures, in the Los Angeles company is four times as large as in the Merchants company and nearly three times as large as in the National company. Again, according to applicants' figures, the Los Angeles company for each $1,000 of investment obtains a gross revenue of approximately $220, the Merchants company of approximately $245, and the National company of approximately $170.

The operating ratios for 1919, according to applicants' figures, were approximately 65 per cent for the Los Angeles company and approximately 70 per cent for the National company. The ratio for the Merchants company in that year was clearly abnormal, being in excess of 80 per cent, but it is noted that the relation of the expense to revenue has fluctuated greatly in different years and between the three applicants. Considering all of the relevant factors, including the character of the business done, the amount of storage space available and the history of each company, it is apparent that a general rate structure should be based upon normal operations of the Los Angeles company rather than on either of the other two smaller companies. It is also apparent that the Los Angeles company does not by any means operate under unusual or extremely favorable conditions. In testing a given rate structure against the operations of the Los Angeles company, a reasonable and normal standard will, therefore, be adopted and not one that the two smaller companies will find it impossible to meet.

Taking as a general basis the experience of that company in the recent past and making proper adjustments in the submitted operating figures, the annual operating results may be estimated as follows:

Operating costs for labor and material including maintenance and taxes	$130,000 00
Operating revenue	220,000 00
Net return	$90,000 00

Operating ratio, 60 per cent.

This net of $90,000 would be equivalent to a "fair return" of slightly over 9 per cent on the historical reproduction cost undepreciated, as found by the Commission's engineers for the operative property of the Los Angeles company, and of slightly over 11 per cent on the reproduction cost less depreciation.

The company adds to its operating expenses the sum of $36,113 for "depreciation" ($12,706 for the Seventh street plant and $23,407 for

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the Fourth street plant). Assistant Engineer Davis, in Commission's Exhibit "B," also makes an estimate of a depreciation annuity on a 6 per cent sinking fund basis and reaches the conclusion that there should be set aside annually, to provide for the replacement of all depreciable property, the sum of $10,922 ($4,242 for the Seventh street plant and $6,680 for the Fourth street plant). If depreciation is not otherwise taken care of this sum should be deducted from the net return (shown above as $90,000) in order to get a true estimate of the "fair return." It is a fact, however, that the company does not carry an actual depreciation reserve but takes care of renewals, according to the testimony, as a part of the ordinary maintenance and operating expenditures. It appears that this has been the practice in the past of not only the Los Angeles company but of the other two applicants, and since the cold storage operations and the cold storage property are an inseparable part of the other operations and the other property of the company, I see no reason why the Commission should insist, in this case, on the setting aside of a separate depreciation fund for the storage property alone. It would not be proper, however, to leave unadjusted operating expenses which already include the cost of renewals, and in addition allow another theoretical depreciation annuity designed to take care of property replacements both large and small. This would result in an unjustifiable duplication in an expense estimate.

Even if we assume, for the purpose of this estimate, that one-third or one-half of the depreciation annuity estimated by our engineers should be added to the operating costs, the remaining "fair return" would still be in excess of 8 per cent on the undepreciated reproduction cost and in excess of 10 per cent on the depreciated reproduction cost.

The years 1919 and 1920 may be considered as reflecting the peak of operating costs for both labor and materials. Electric power is one of the largest items in the company's cold storage expense, and the cost of power is decreasing. This is also true of other large expense items, such as machine repairs and labor expense. One other factor should not be lost sight of, and that is the increase in business that may reasonably be expected. It is in evidence that for a portion of the year the applicants are obliged to carry varying amounts of empty space. This condition is due partly to seasonal requirements and partly to present excess capacity in anticipation of business growth. There is no doubt in my mind that such growth may be confidently expected in a city developing and increasing in population as rapidly as is Los Angeles. While it is true that increased business will result in increased operating expenses, the expense ratio attaching to the increased business will become more favorable and the result will be an increase of the company's profits.

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It is my conclusion, therefore, that under the present rates and with the amount of business at present offered, the Los Angeles company is earning all of its operating costs, including taxes and depreciation, and, in addition, is earning an ample and fair return regardless of whether this fair return is measured against the depreciated or undepreciated historical reproduction cost. I am further of the opinion that with efficient operation this fair return will increase under present rates by reason of larger business which may confidently be expected.

Rate comparisons and season rates.

There were introduced as exhibits in these proceedings comparison of the Los Angeles rates with rates in other cities in the United States for the purpose of showing that the Los Angeles cold storage rates were unduly low. It is my opinion that no conclusive showing has been made in this respect. But aside from that, it would seem that Los Angeles rates should be based on Los Angeles conditions and costs and that rates of other cities, where, in the majority of instances, storage and climatic conditions are very different, can not serve as a just and reasonable criterion for what this service should cost in Los Angeles.

Applicants ask that season rates be abolished. Protestants make serious objection to this proposal and ask that such rates be retained. I am satisfied that season rates are discriminatory and unfair and that they have a tendency, to say the least, to encourage speculation in foodstuffs. The desirable and equitable aim in all rate-making should be that the consumer or patron pay, as nearly as may be, the cost of the service received plus a reasonable return upon investment. While it is impossible to realize this ideal in all cases, I see no reason why the principle should be varied from with cold storage rates. There can be no doubt that to base charges on a uniform unit of time is more equitable than to discriminate with a time unit between different storers and different classes of goods. The United States Food Administration, during the war, investigated quite exhaustively the matter of season rates for storage. It is realized that during the stress of the war period considerations governed which have not the same force in normal times. But it seems to me that some of the reasons given by the Food Administration in objecting to season rates are as good now as they were then. The Administration came to the following conclusions:

> Season rates must be considered unfair and inequitable, because they do not represent accurate and reasonable compensation for services rendered.
>
> The costs of conducting the cold storage business have exact reference to a small unit of time, such as a month, rather than a maximum period, such as a season. For instance, the principal items involved are rent, interest, depreciation, labor, etc., all figured on a monthly basis.
>
> Season rates must be regarded as discriminatory.
>
> It has been customary, on season goods, to add the storage cost to the price of the goods, and to give the benefit of the unexpired season storage to the purchaser,

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regardless of whether the goods were to be carried for the season, or immediately withdrawn. This eventually added to the cost of the product to the consumer.

Undoubtedly the season rate practice leads to undue length of time in carrying merchandise, which might be interpreted as "hoarding" or lending itself to speculative practices.

I recommend that season rates be permanently abolished and that the regular monthly unit rate should apply for all classes of merchandise.

I suggest the following form of order:

ORDER.

Los Angeles Ice and Cold Storage Company, Merchants Ice and Cold Storage Company, and National Ice and Cold Storage Company having, in original and amended applications, asked the Commission to make its order granting the increases in rates proposed to be established by applicants; hearings having been held, exhibits introduced, and testimony heard, and it appearing to the Commission, after careful consideration of all the evidence, that an increase in the cold storage rates and a change in rules and regulations as proposed by applicants are not justified at this time and, if granted, would result in unfair and unreasonable rates, charges, rules and regulations;

It is hereby ordered, that the applications be and the same are hereby dismissed without prejudice.

It is further ordered, that the request of the protestants in these applications, viz, Klein-Simpson Food Company et al., for reestablishment of season rates on certain commodities be and the same is hereby denied without prejudice and that the monthly unit of time in computing rates and charges shall be retained for all commodities.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

DECISION No. 9140.

IN THE MATTER OF THE APPLICATION OF SKIRVING WAREHOUSE COMPANY, INCORPORATED, FOR AN ORDER AUTHORIZING THE ISSUE OF COMMON AND PREFERRED STOCK.

Application No. 6783.

Decided June 24, 1921.

Jesse H. Steinhart, and *John J. Goldberg*, by *John J. Goldberg*, for Applicant.

MARTIN, *Commissioner*.

OPINION.

In this petition, as amended at the hearing, Skirving Warehouse Company, Incorporated, asks permission to issue $45,000 of common and $5,000 of preferred stock.

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Applicant was incorporated April 1, 1921, with an authorized capital stock of $50,000, divided into $45,000 (450 shares) of common, and $5,000 (50 shares) of preferred. The company was organized for the purpose of acquiring the business now owned and conducted by L. J. Skirving, which consists chiefly of the warehousing of grain, rice, beans and small quantities of other commodities, and of buying and selling grain on commission.

The testimony herein shows that at present L. J. Skirving is operating, practically without competition, eight warehouses located at Miller, Pleasant Grove, Catlett, Sankey, East Nicolaus, Arboga and Tarke, all of which are located along the lines of the Sacramento Northern Railroad or The Western Pacific Railroad Company. These warehouses are being operated under lease agreements, which he proposes to transfer to applicant. The petition shows that he owns a one-third interest in the Pleasant Grove warehouse, a one-fourth interest in one of the Catlett warehouses, a one-fourth interest in the East Nicolaus warehouse and a three-fifths interest in the Tarke warehouse. The larger Catlett warehouse is owned by Catlett Warehouse Company, the East Nicolaus warehouse by the East Nicolaus Warehouse Company and the Pleasant Grove and Tarke warehouses by copartnerships of which L. J. Skirving is a member. At the hearing, applicant amended its application to ask permission to acquire the stock and interest of L. J. Skirving in these warehouses. The remaining warehouses are owned by private individuals or firms that are not parties to this application, but which are agreeable to the assignment of the leases to applicant.

Permission is asked to issue $37,500 of common stock to L. J. Skirving in exchange for his properties. He reports the net investment in his properties, not including leasehold rights or other intangible property, at $20,304.57, consisting of—

Physical properties	$3,045 00
Ownership in warehouse building	14,700 00
Accrued storage charged	10,559 57
Total	$28,304 57
Deduct $8,000 indebtedness	8,000 00
Net total	$20,304 57

Petitioner claims, however, that a value should be allowed for leasehold rights, good will and promotion expenses. L. J. Skirving testified that the warehouses, all of which he operates under leases, are located in very advantageous positions, and that he is enjoying practically a monopoly on the storage business between Sacramento and Marysville. It appears from his testimony, however, that considerable competition exists in the commission phase of his business, which constitutes an appreciable part of the total business. It further appears that the instituted the warehouse business about eight years ago with the lease of a

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single warehouse at Pleasant Grove, and that by investing profits, the business has been expanded until today eight warehouses are being operated. It occurs to me that the testimony does not justify the issue by applicant of more than $30,000 of stock in payment for the properties which it intends to acquire from L. J. Skirving.

Applicant further asks permission to issue $7,500 of common stock and $5,000 of preferred stock to Robert Church, its vice president, for $9,000 in cash. It intends to use $8,000 of the proceeds to pay indebtedness which it asks permission to assume and use the remainder to provide itself with working capital. I believe that applicant should be permitted to issue to Robert Church in exchange for $9,000 in cash, $5,000 of its common and $5,000 of its preferred stock.

L. J. Skirving reports $8,123.35 of net revenues for the year ending May 31, 1920, and $11,780 for the year ending May 31, 1921.

I herewith submit the following form of order:

ORDER.

Skirving Warehouse Company, Incorporated, having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by the issue of stock herein authorized is reasonably required for the purpose or purposes specified in this order;

It is hereby ordered, that Skirving Warehouse Company, Incorporated, be and it is hereby authorized to issue $35,000 of its common and $5,000 of its preferred stock and to assume the payment of an $8,000 indebtedness referred to in the petition herein.

The authority herein granted is subject to the following conditions:

1. Of the common stock, $30,000 shall be issued and delivered to L. J. Skirving in payment for the properties and business referred to in this application.

2. The $5,000 of preferred stock and $5,000 of common stock herein authorized to be issued shall be sold to Robert Church for a cash consideration of $9,000 and the proceeds used to pay the $8,000 indebtedness, the payment of which applicant is herein authorized to assume, and to provide itself with working capital.

3. Applicant shall file within thirty (30) days after its execution a certified copy of the deed conveying the properties which it is herein permitted to acquire through the issue of stock.

4. Applicant shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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5. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before October 31, 1921.

It is hereby further ordered, that Skirving Warehouse Company, Incorporated, be and it is hereby authorized to acquire and hold the stock now owned by L. J. Skirving and which he has agreed to transfer to the Skirving Warehouse Company, Incorporated.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

DECISION NO. 9141.

IN THE MATTER OF THE APPLICATION OF E. B. HART, A WAREHOUSEMAN, FOR AUTHORITY TO INCREASE RATES AT WINTERS.

Application No. 6743.

Decided June 24, 1921.

H. M. Hall, for Applicant.

BY THE COMMISSION.

OPINION.

Applicant operates a public warehouse at Winters, having purchased the same from Buckeye Grangers Warehouse Association, whose schedule of rates was automatically adopted. Those rates established in 1918 are considerably lower for the same class of service than rates generally in effect in the same locality. The existing rates and those proposed in the application covering the storage of grain are as follows:

	Present	Proposed
Storage, per season, per ton	*$1 00	$1 25
Loading to cars, per ton		25

*Includes loading.

At the hearing held on May 26, 1921, by Examiner Satterwhite at Winters, applicant offered to amend his petition to the extent of eliminating the proposed additional charge of 25 cents per ton for loading grain from the warehouse to cars and also to reduce the proposed uniform season storage charge of $1.25 per ton to 75 cents per ton on commodities when stored in the warehouse yard. These modifications would leave for further consideration only the proposed increase of 25 cents per ton per season on grain stored *within* the warehouse.

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An operating statement covering the year 1920, submitted at the hearing, shows the following results:

Revenue		$3,472 93
Expenses—Labor	$2,326 05	
Insurance	70 00	
Taxes	147 72	
Repair	159 00	2,702 77
Net revenue		$770 16

These expenses, however, take no account of general depreciation of warehouse and equipment, nor overhead costs. The property investments have a value estimated by applicant at $10,000. There is a mortgage of $5,400 with interest of 8 per cent per annum, or $432.

The evidence showed that the year 1920 was more than usually favorable to applicant, the warehouse being filled to capacity. Should yard storage be necessary hereafter, such tonnage would, as stated, be handled at 75 cents per ton, or 25 cents per ton less than the present rate. The 25 cents per ton increase in the warehouse storage should in a normal year give a net income of approximately $1,000.

There were no protestants at the hearing, and the Commission knows of no opposition to the application as amended. It is believed that the proposed increase of 25 cents per ton per season for the storage of grain has been justified and should be authorized.

No specific authority from this Commission being required in order for applicant to maintain and operate his warehouse, that portion of the petition relating to this matter will not be covered by the order herein.

ORDER.

E. B. Hart, proprietor of the so-called Winters Warehouse, a public utility, having applied to this Commission for authority to increase warehouse rates, a hearing having been held thereon, the matter having been submitted:

It is hereby found as a fact that the present season rate of $1 per ton for storing and loading grain is unjust and noncompensatory and that a rate of $1.25 per ton including loading out of warehouse is just and reasonable for the service.

Basing its order upon the foregoing finding of fact, and upon other facts stated in the accompanying opinion;

It is hereby ordered, by the Railroad Commission of the State of California, that applicant be and is hereby authorized to publish and file tariffs with this Commission within twenty (20) days from date hereof covering rates of $1.25 per ton per season for the service of storing and loading grain stored in warehouse and rate of 75 cents per ton for storing grain when handled only in warehouse yard.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

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DECISION NO. 9142.

IN THE MATTER OF THE APPLICATION OF FRANK DAVIES (CITIZENS AUTO STAGE) FOR AN ORDER FIXING RATES AND FARES TO BE CHARGED FOR TRANSPORTING PASSENGERS BETWEEN NEVADA CITY, FOREST AND ALLEGHANY.

Application No. 6430.

Decided June 24, 1921.

Nilon and Nilon, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding Frank Davies, operating under the fictitious name of Citizens Auto Stage Company, makes application petitioning the Railroad Commission to prescribe rates, fares and charges for transportation of passengers between Nevada City, Forest, and Alleghany and intermediate points, of sufficient volume to yield the applicant a reasonable return on his investment. The application was amended, petitioning for a flat increase of 20 per cent in passenger fares.

A public hearing was held before Examiner Satterwhite April 7, 1921, and the matter is now ready for decision.

The applicant, in addition to the carrying of passengers and freight, also handles United States mail over his route between Nevada City and Forest and intermediate points, using automobiles in the summer and horse drawn vehicles in the winter. The route is over mountainous country, over heavy mountain grades and poor roads and with heavy snows during the winter months. The applicant filed with his application certain figures setting forth revenue and operating expenses for the period 1917 to 1920, inclusive, but these figures include not only revenue and expenses in the operation of his passenger service but also of freight service and in the operation of United States mail contracts with no attempt at segregation of expenses chargeable to passenger, freight and United States mail contract. Owing to the method of operation of this line, it would no doubt be a difficult matter to separate certain of these expenses, but the figures generally indicate that the applicant is operating at a loss and if he is to continue in business, requires additional revenue.

The applicant's rates are already higher than the rates in many other localities but this is offset to a great extent by difficulties of operation and the necessity of keeping the service going during rough weather.

Analyzing all of the evidence before us, we conclude that an increase of 10 per cent in applicant's passenger fares, such fares to end in the nearest multiple of 5 cents, will afford at least temporary relief and an order will be made accordingly. In the meantime the applicant will

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be instructed to make a segregation of his operating expenses on some reasonable basis showing the amount attributable to the conduct of the mail service and the amount attributable to the freight and passenger service separately, and if at the end of six months temporary relief herein granted is not sufficient to yield a reasonable return, the Commission will consider a supplemental application to that effect.

ORDER.

It is hereby ordered, that Frank Davies, operating the Citizens Auto Stage Company, is hereby granted authority to increase his present passenger fares between Nevada City and Forest and intermediate points 10 per cent, such fares to end in the nearest multiple of 5 cents.

It is further ordered, that the applicant Frank Davies will be required to keep complete record of his revenue and expenses, showing the amounts chargeable to the various phases of his service, namely, freight, passenger, separate from any other kind of business transacted and at the end of six months, if the above rates do not yield a reasonable return upon the property used and useful in the public service, he may again come to the Commission for further relief.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

DECISION NO. 9144.

NICHOLLS-LOOMIS COMPANY

vs.

SOUTHERN PACIFIC COMPANY ET AL.

Case No. 1552.

Decided June 24, 1921.

The Commission finds that there is no discrimination when transit privileges prescribed by the carriers' tariffs apply alike to all shippers under like conditions.

F. F. Miller, for Complainant.

F. B. Austin and *H. C. Hallmark*, for Southern Pacific Company.

Frank Karr, for Pacific Electric Railway Company.

E. W. Camp and *G. H. Baker*, for The Atchison, Topeka and Santa Fe Railway Company.

E. E. Bennett, for Los Angeles and Salt Lake Railroad.

LOVELAND, *Commissioner*.

OPINION.

This is a proceeding in which Nicholls-Loomis Company, a corporation incorporated under the laws of the State of California, engaged in the wholesale hay, grain, flour and feed business, located at Los Angeles, California, avers that Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad

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and Pacific Electric Railway Company, the defendants, maintain transit privilege on mixed feeds containing twenty per cent or less of nontransit ingredients, and that such rule of said defendants is discriminatory, for the reason that it prohibits the transit privilege on mixed feeds containing in excess of twenty per cent nontransit ingredients.

A public hearing was held in Los Angeles, May 25, 1921, briefs have been filed, and the matter is now ready for opinion and order.

Prior to February 20, 1921, mixed feeds were not accorded by the defendant carriers any transit privilege. On February 20, 1921, the defendant carriers established a rule permitting transit privilege on mixed feeds containing not in excess of twenty per cent nontransit ingredients.

The complainant in this proceeding contends that it is not able to take advantage of the transit privilege on its mixed feeds but that other mills are able to take advantage of the transit privilege owing to the fact that other mills manufacture some of the ingredients which the complainant does not, and complainant contended that it was discriminatory to the extent that they did not enjoy transit privilege while their competitors did.

The complainant manufactures large quantities of mixed feeds for poultry, consisting principally of mashes and soft feeds, the principal ingredients of which are bran and shorts. Of twenty-two different formulas for such feeds, fourteen contain over twenty per cent of bran and shorts or other nontransit ingredients, and only eight of these different kinds of mixed feeds contain under twenty per cent nontransit ingredients. Some of the mills competing with the complainant manufacture their own bran and shorts from wheat and other grains milled at the shipping point and therefore the by-product bran and shorts in such case are accorded transit privilege, and these competitors of the complainant are able to ship at a less rate on the outbound mixed feeds to the extent that the milling and transit rate was less than the local rate from shipping point.

The evidence showed that the complainant purchased bran and shorts at eastern points and in many instances probably the bran and shorts so purchased, moving from eastern shipping point to complainant's mill, were accorded a milled-in-transit privilege which the same commodity would not be entitled to in reshipment from complainant's mill in mixed feeds outbound. Therefore the mixed feeds of the complainant containing the same commodity, bran and shorts, would not be entitled to the milled-in-transit privilege on account of said bran and shorts not having been milled at the shipping point. This condition is purely a commercial one and in no way discriminatory, for the reason that if the complainant did manufacture its bran and shorts it would enjoy the

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same transit privilege as its competitors who do manufacture these products.

The complainant cited the case of *Atlas Cereal Company* vs. *Chicago, Burlington and Quincy Railroad Company et al.*, 59 I. C. C. 702. In that case the carrier denied transit privileges at Kansas City, Missouri, on mixed feeds containing more than twenty per cent of molasses, while at the same time the same carrier granted transit privileges on the same commodity at St. Joseph, Missouri. The case is not parallel and is therefore not comparable.

In Southern Pacific Company's Terminal Tariff No. 230–H, C. R. C. No. 2477, effective February 20, 1921, on original page 34-a, we find the rule granting transit privileges to mixed feeds or blended products as follows:

NOTE.—3. Transit privileges on mixed feed or blended products manufactured from two or more of the articles named in paragraph "e," section No. 1, page 34, or from such articles combined with not to exceed 20 per cent of other articles, are subject to the following conditions:

(a) Shipper must furnish signed certificate showing the exact ingredients entering into the mixed feed or blended products and their percentage proportions to the whole, and surrender representative freight bills in proportions specified. Will not apply where the portion in the mixed feed or blended products made from articles other than those as listed in paragraph "e," section No. 1, page 34, exceeds 20 per cent of the whole. In such cases flat rate from transit station will apply on the whole carload.

(b) Difference between rate paid origin to transit point and through rate applicable to the mixed feed or blended products will apply on the actual weight of the portion of outbound shipment entitled to transit privileges and for which representative freight bills for inbound tonnage (in proportions specified) are surrendered. The carload rate from transit point on the mixed feed or blended products will apply on the portion made from articles other than those listed in paragraph "e," section No. 1, page 34, providing it does not exceed 20 per cent; also applies on the portion made from articles named in paragraph "e," section No. 1, page 34, for which representative freight bills are not surrendered.

In the absence of specific commodity rates origin to destination, on the mixed feed or blended products, each transit commodity in the mixed feed or blended products (per surrendered certificate of shipper and freight bill) will be billed from transit point to destination at the difference between the rate paid origin to transit point and the through rate applicable on such transit commodity; the nontransit portion, if any, to take carload rate applying on mixed feed or blended products, transit point to destination.

Similar privileges are published by the other defendants.

ORDER.

Inasmuch as transit privileges prescribed by the carriers' tariffs apply alike to all shippers under like conditions, and the only reason why complainant does not enjoy the same transit privilege on its mixed feeds shipped out is because the ingredients of their mixed feeds become nontransit ingredients for the reason that they are not milled at shipping point and have probably once been accorded transit privileges, I believe that no discrimination has been shown and therefore recommend that the case be dismissed.

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It is hereby ordered, that the complaint in this case be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

DECISION NO. 9145.

W. D. MOORE, TOM B. FELT, JOHN F. EVEN, C. B. SHIVELY, E. H. GOULD, ED R. SHEPARD, S. L. MAYFIELD, AND S. H. WYCKOFF AND ARTHUR H. SHEPARD

vs.

SAN FRANCISCO, NAPA AND CALISTOGA RAILWAY, A CORPORATION.

Case No. 1514.

W. D. MOORE ET AL.

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1515.

Decided June 24, 1921.

Commutation fares between Napa and Vallejo held not to be excessive when distance and operating cost considered. Charges comparable to those for like service and can not be compared with rates within metropolitan district.

COMMUTATION TRAFFIC.—Wholesale transportation and reduced rates for such service are given upon the theory that the passenger makes one round trip daily.

Frank L. Coombs and *Nathan F. Coombs*, for Complainants.

Morrison, Dunne and Brobeck, by *H. W. Clark* and *R. C. Foster*, for San Francisco, Napa and Calistoga Railway.

C. W. Durbrow, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

In Case No. 1514, W. D. Moore et al. made complaint against the San Francisco, Napa and Calistoga Railway, hereinafter called the electric road, alleging that the monthly commutation fare between Napa and Vallejo of $11.64 is unfair and unreasonable to the extent that it exceeds a monthly commutation fare of $7 per calendar month.

In Case No. 1515, W. D. Moore et al. made complaint against the Southern Pacific Company, hereinafter called the Southern Pacific, alleging that the monthly commutation fare between Napa and Mare Island Navy Yard of $11.65 is unreasonable to the extent that it exceeds a monthly commutation fare of $7 per calendar month.

The above entitled cases were consolidated for hearing and decision. A public hearing was held February 21, 1921, and the matter is now ready for a decision.

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The complainants in these proceedings are commuters living in the city of Napa and employed at the United States Navy Yard at Mare Island, across the channel from Vallejo.

The distance from Napa to South Vallejo via Southern Pacific is 15.5 miles and from South Vallejo to Mare Island 1.2 miles, a combined distance of 16.7 miles. The assistant passenger traffic manager of the Southern Pacific testified that a travel check for ten days next preceding the hearing in these cases, on February 21, 1921, showed an average of 427 commuters per day between Napa and Mare Island, and that the average number of commute tickets sold were as follows:

September, 1920	504
October, 1920	475
November, 1920	505
December, 1920	523
January, 1921	522
February, 1921	504

Testimony shows, further, that in September, 1918, there were 520 commute tickets sold, October 532, and in November 514. So it is evidenced that the average number of tickets sold has been fairly constant. The evidence indicated also that the electric line carries about 100 commuters per day between Napa and Vallejo. The commutation fare for a monthly commutation ticket for one round trip daily prior to February 7, 1918, on the Southern Pacific was $10.60. On February 7, 1918, commutation fares generally were readjusted, based on 1 cent per mile, and this commutation fare was reduced to $10. On June 10, 1918, under General Order No. 28 of the Director General of Railroads, commutation fares were increased 10 per cent, making this commutation fare $11. On December 1, 1918, the United States Railroad Administration put in a rate for 10 and 12 ride tickets for war workers only of $1.58 and $1.90, respectively, between Napa and Mare Island. These fares remained in effect until July 31, 1920, at which time they were abolished. While the government could legally put in any rate it chose and confine such rate to any class of patrons, the private carrier is prohibited by statute from doing that same thing. Carriers must provide the same rates and service for all patrons regardless of who they may be.

The evidence showed that the carrier furnishes special train and boat service morning and evening between Napa and Mare Island to accommodate commutation travel, it being necessary to maintain a ferry service from South Vallejo to Mare Island which is required entirely by the commutation service.

Eight coaches and a ten wheel locomotive are used in this service. The engine requires a watchman at Napa on account of no roundhouse facilities. They ferry boat "The Bay City" is used in the Napa and Oakland-San Francisco commute service.

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Southern Pacific Railroad Excursion Tariff No. 28–A, C. R. C. 2784, effective September 1, 1919, provides commutation rates between specified points in California north of Santa Barbara and Mojave. This tariff covers practically all of the commutation business of consequence in this territory. Section 17 of that tariff provides a basis for making fares for individual monthly commutation tickets where specific fares are not shown. That basis is 1 cent per mile plus 10 per cent for 62 trips, which was increased by this Commission's Decision No. 7983 by 20 per cent. The distance between Napa and Mare Island is 16.7 miles, multiplied by 62 trips makes 1035.4 miles; on the basis of 1 cent per mile plus 10 per cent, the rate would be $11.39, increased by 20 per cent would make $13.67 based on the formula for figuring commutation rates, whereas the present rate applicable for 62 rides between Napa and Mare Island is $11.65.

Considerable testimony was taken to the effect that these commuters did not work on Sunday and that being United States government employees had the privilege of thirty days vacation per annum, with pay. Further testimony was to the effect that many of these workers were Seventh Day Adventists and did not work on Saturdays. All of these matters are of no consideration to the carrier. The employees do not all take their vacations at one time nor do they all refrain from work on Saturday, therefore, the same service must be maintained whether a portion of these employees lay off or are on vacation.

Commutation traffic is wholesale transportation and reduced rates for such service are given upon the theory that the passenger makes one round trip daily.

With the exception of a few points in California on the peninsula south of San Francisco, all monthly commutation rates are based on 62 rides. The only place where different rates are given when Sunday trips are eliminated is between San Francisco and San Jose for points from Burlingame south. The defendant Southern Pacific has contended that its commutation rates are too low. The commutation fare of $11.65 for 16.7 miles between Napa and Mare Island is not comparable to commutation rates within the metropolitan district where thousands of commuters ride daily. The exhibits filed by complainants contained comparisons of rates for metropolitan districts only. The Napa-Mare Island rate may be comparable, however, with rates for similar distances on the coast division of the Southern Pacific: for instance between Burlingame and Mayfield, 15.5 miles, we find a rate of $12.20; between Broadway and Mayfield, a distance of 16.6 miles, we find a rate of $12.61; on the Southern Pacific, Western Division, Niles to Livermore, 17.7 miles, $14.52; San Leandro-Farwell, 16.9 miles, $13.20. On the electric line we find monthly commutation rates, Calistoga-Yountville,

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17.5 miles, $12.66; Dunaweal-Veterans' Home, 16.59 miles, $12; St. Helena-Napa, 16.9 miles, $12.18.

On the Central California Traction Company, monthly commutation rates anywhere on its line, $.0132 per mile; on Peninsula Railway Company, Palo Alto and Saratoga, 16.76 miles, $12.06 for 60 rides; on Petaluma and Santa Rosa Railroad, Petaluma and Sebastopol, 16.6 miles, $12.60.

No evidence was offered by complainants either by testimony or exhibits comparing or concerning rates on the electric line.

The complaint in this proceeding alleges that any rate in excess of $7 for calendar month commutation round trip daily was unreasonable and unfair and that a $7 rate would produce a fair and just return on defendants' investments. We find no rate in the defendant electric line's tariffs on file with this Commission comparable to a $7 rate for any like distance.

Complainants produced no evidence of whatsoever character as to the proposed $7 rate being compensatory or otherwise.

The defendant Southern Pacific offered in evidence an exhibit showing that the cost of the service, reckoned by process of elimination from figures taken from its annual report, was $4,990 per month, while 500 commutation tickets at $11.65 each which is the present rate, produces $5,825 revenue, while 500 similar tickets at $7 rate would produce $3,500, or $1,490 less than enough to pay actual operating expenses. The defendant's exhibit did not attempt to show value of property used and useful in this service, nor did it set up any depreciation or maintenance of buildings or road bed.

The defendant electric line filed an exhibit showing earnings and expenses of commutation trains covering last four months 1920. Actual earnings compiled from conductors' reports showed a car mile earning of $.544, while at full seating capacity earning would be $.581, total operating cost per car mile $.666. Therefore, these trains lack $.085 per car mile of paying operating expenses. If a $7 rate was in effect, the earning of these commutation trains would be $.349 per car mile, or $.317 per car mile less than enough to pay operating expenses.

Taking all of these conditions and circumstances into consideration, we believe that no showing has been made that the present rates are unreasonable or unfair, or that they produce an unreasonable return upon the investment, and that, therefore, this complaint should be dismissed.

ORDER.

It is hereby ordered, that the complaints in this proceeding should be and the same are hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

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DECISION NO. 9146.

IN THE MATTER OF THE APPLICATION OF THE LIGHT AND POWER UTILITY FOR REVISION OF RATES.

Application No. 6248.

Decided June 24, 1921.

RATE OF RETURN.—Found to be fair considering service given.
Combination rates, established for domestic lighting, cooking and heating service.

C. H. L. Ghriest, for Applicant.
Frank L. Miller, for City of Banning.

BY THE COMMISSION.

OPINION.

The Light and Power Utility requests an increase in its rates for electric energy served in Banning, Riverside County, urging as reasons therefor that it is not receiving a fair return upon the actual capital invested and that due to the increased cost of materials and purchased energy an increase in its rates is necessary in order that it may continue to furnish adequate service, but it does not request a definite amount of increase nor suggest a schedule of rates. A hearing was held upon the application by Examiner Westover at Banning.

Applicant operates an electric distribution system in Banning, power being purchased from the Southern Sierras Power Company. Applicant produced no engineering testimony at the hearing and it developed that its records were incomplete, and its system of accounting inadequate. The Commission's engineers were therefore unable to produce from its records any appraisal showing actual cost and were obliged to use estimates in some instances.

In June, 1919, this Commission made an inventory and appraisal of applicant's properties in connection with Application No. 4609, in which matter the Commission fixed the just compensation to be paid to applicant by the city of Banning. This inventory and appraisal shows a cost to reproduce new of $18,414 and a cost to reproduce new less depreciation of $13,833. Both of these figures are as of May 24, 1919. In Commission's Decision No. 8564, in Application No. 4609, the just compensation to be paid for the properties as of May 24, 1919, was found to be $14,000.

In connection with the fixing of the present rates by Decision No. 3463, of June 27, 1916, the Commission determined the historical reproduction cost of the properties to be $9,178.45 as of April 30, 1916. (See Opinions and Orders of the Railroad Commission, Volume 10, page 480.)

The Commission's engineers estimate with the aid of applicant's records that additions and betterments from April 30, 1916, to January 1, 1921, have amounted to approximately $7,800. Additions

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and betterments for 1921, as estimated by the Commission's engineers will amount to $2,000. On the basis of the valuation of April 30, 1916, plus additions to capital from April 30, 1916, to January 1, 1921, one-half of estimated additions for 1921, $500 for material and supplies and $1,000 for working cash capital, the rate base as of June 30, 1921, amounting to $19,027.54 will be used in this proceeding.

The additions and betterments since May 24, 1919, plus working cash capital and material and supplies as above found reasonable, brings the total based on the finding of $14,000 as the just compensation of the properties of applicant to $19,700 as of June 30, 1921.

Table No. 1 below shows the statistical data regarding the operations of The Light and Power Utility for the year 1920, together with the Commission's estimate for 1921.

TABLE NO. 1.

ELECTRICAL OPERATIONS, THE LIGHT AND POWER UTILITY.

Application No. 6248.

Item	1920	C. R. C. estimate, 1921
Purchased energy, kilowatt hours	184,180	224,500
Total sales, kilowatt hours	134,606	168,200
Cost per kilowatt hour of purchased energy	2.22¢	1.825¢
Number of consumers:		
Residence lighting	260	305
Commercial lighting	80	95
Heating and cooking	13	15
Industrial power	11	12
Total	364	427
Kilowatt hour sales:		
Residence lighting	51,957	65,000
Commercial lighting	36,699	45,800
Heating and cooking	25,467	31,800
Industrial power	20,483	25,600
Total	134,606	168,200

Operating expenses and revenue from sales as estimated herein for the year 1921 are shown in detail in Table No. 2:

TABLE NO. 2.

OPERATING EXPENSES, REVENUE AND RETURN, THE LIGHT AND POWER UTILITY.

Revenue—	C. R. C. Estimate, 1921
Residence lighting	$5,550 00
Commercial lighting	2,670 00
Heating and cooking	1,120 00
Industrial power	1,455 00
Total	$11,795 00

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Operating expenses—	
Purchased energy	$4,106 00
Distribution expense and repair	330 00
Commercial expense	150 00
Salaries and general overhead	4,300 00
Miscellaneous general expense	250 00
Miscellaneous general repair	15 00
Other expense	15 00
Taxes	1,048 00
Total	$10,234 00
Net revenue for return and depreciation	$1,561 00

Applicant purchases its energy at 2200 volts from The Southern Sierras Power Company at Banning. Prior to the Commission's Decision No. 8119, dated September 16, 1920 (Opinions and Orders of the Railroad Commission of the State of California, Volume 18, page 818), fixing the rates of The Southern Sierras Power Company, The Light and Power Utility was paying The Southern Sierras Power Company a rate of 2 cents per kilowatt hour plus a surcharge of 2 mills per kilowatt hour. In this decision the Commission fixed Schedule P–1 applicable to resale service. Applicant stated that the Southern Sierras Power Company's Schedule P–1 had resulted in an increase. During the months of November and December the actual charges for purchased energy amounted to $340.37 and $383.17, for a consumption of 18,130 kilowatt hours and 20,440 kilowatt hours respectively, resulting in an average charge of 1.87 cents per kilowatt hour, a reduction of 15.7 per cent over the former rate. Based on the sales as estimated in Table No. 1 the purchased energy for the year 1921 will amount to 224,500 kilowatt hours. The Commission estimates that the total cost to applicant for purchased power from The Southern Sierras Power Company for the year 1921 will amount to $4,106, an average of 1.825 cents per kilowatt hour, which will result in a reduction of 17.8 per cent over the former rate paid by applicant.

Applicant has not, according to the evidence, paid its state taxes in the past. In this decision the proper state and city taxes will be included as a part of operating expenses, it being understood that said taxes will be assessed and paid.

Applicant estimated that the sales for 1921 would not be increased over those resulting in 1920. From a study of the conditions existing at Banning, the Commission is led to believe that the sales for 1921 will be at least 25 per cent above those occurring during 1920. This figure has been used in determining the above estimate for this year and the amount of energy necessary to be purchased from The Southern Sierras Power Company.

The revenue for 1921 based upon existing rates should amount to $11,795.

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In this proceeding the Commission will allow 3 per cent on operative capital for depreciation, amounting to $526. The return on investment after deducting operating expenses of $10,234 and depreciation will, for the year 1921, amount to $1,034 or 5.4 per cent on the rate base allowed.

Applicant's lighting rates are a maximum of 8 cents per kilowatt hour as compared with 11 cents per kilowatt hour charged for similar service by The Southern Sierras Power Company in comparable territory. It would therefore appear that the present rates charged are not high. The lower rate is possible owing to the limited territory served by applicant, which excludes the surrounding less remunerative territory.

There is and has been in the past (and the same condition exists at present) a general complaint by applicant's consumers regarding the attitude and manner of applicant in carrying on its business which prevents its proper and natural development. The Commission has urged applicant from time to time to improve these conditions for the betterment of service to consumers and increase of business to applicant. It is the firm conviction of the Commission's engineers that applicant's business could be increased to a point where it would pay an adequate return under present rates. Under these conditions the Commission does not feel justified in authorizing an increase in rates at this time and the return as estimated above is fair considering the service given.

The rates now in effect are not of such form as will allow a combination of domestic lighting, cooking and heating services. As such a combination appears to be advisable and of material aid in developing the business, a schedule allowing a consumer to obtain domestic lighting, heating and cooking service or a combination of two services through one meter and on a combination rate is set forth in the order following. This new schedule will be an optional rate to the present lighting schedule and heating and cooking schedule applicable to domestic service. If in the future applicant shows to the Commission's satisfaction that it has made suitable changes to improve conditions and has made a sincere and intelligent effort to properly develop the business, but that an increase in rates is still needed to provide an adequate return, the matter may again be brought to the Commission's attention by the filing of a new application.

ORDER.

A hearing having been held upon the above application and the matter having been submitted and now ready for decision:

The Railroad Commission hereby finds as a fact that the present rates charged for electric service are just and reasonable rates for the service rendered but that there should be filed a schedule of rates for combination service, as herein provided.

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Basing its order on the foregoing findings of fact and on the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that the application for an increase in rates be and it is hereby denied.

It is hereby further ordered, that The Light and Power Utility be and it is hereby ordered to charge and collect for energy sold for combination domestic lighting, heating and/or cooking service, based on regular meter readings taken on and after July 15, 1921, the following rate:

SCHEDULE "E."

Combination lighting, heating and/or cooking service.

Applicable to residence, flat or apartments of eight rooms or less.

Territory.

Applicable to entire territory.

Rate.

First	30 kilowatt hours per meter per month	8	cents per kilowatt hour
Next	70 kilowatt hours per meter per month	4½	cents per kilowatt hour
All over	100 kilowatt hours per meter per month	3	cents per kilowatt hour

Minimum charge.

$2 per meter per month.

Special conditions.

This rate is applicable where the consumers have installed and use cooking or heating appliances other than lamp socket devices of at least two kilowatts.

It is hereby further ordered, that The Light and Power Utility shall file with this Commission on or before July 15, 1921, the schedule of rates herein established.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

DECISION NO. 9148.

IN THE MATTER OF THE APPLICATION OF DAVIES WAREHOUSE COMPANY, LOS ANGELES WAREHOUSE COMPANY, PACIFIC COMMERCIAL WAREHOUSE COMPANY, SANTA FE WAREHOUSE COMPANY, SHATTUCK AND NIMMO WAREHOUSE COMPANY, UNION TERMINAL WAREHOUSE COMPANY, FOR PERMISSION TO INCREASE RATES AND CHARGES FOR STORING AND HANDLING COMMODITIES IN WAREHOUSES IN THE CITY OF LOS ANGELES, CALIFORNIA.

Application No. 6412.

Decided June 24, 1921.

Leroy M. Edwards, for Applicant.

George W. Howard, for flour jobbers and bakers in Los Angeles.

Howard C. Bonsall, for Holly Sugar Corporation, Los Alamitos Sugar Company, Santa Ana Sugar Company, Southern California Sugar Company and Anaheim Sugar Company.

MARTIN, *Commissioner.*

OPINION.

Applicants do a general warehouse business in the city of Los Angeles. Each is a public utility, in that it performs a regular storage service for

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compensation in connection with or to facilitate the transportation of property by common carrier or vessel, or the loading or unloading of the same. The record shows that the majority, if not all, of applicants are engaged in other lines of private storage or in other activities more or less associated with warehousing, but not covered by the Public Utilities Act and, therefore, not subject to regulation by the Railroad Commission.

Prior to the enactment of chapter 91, Statutes of 1915, jurisdiction over warehouse utilities located in the city of Los Angeles was vested in the municipality. By the statute, effective August 8, 1915, the Railroad Commission acquired the same power of control over public utilities within the various incorporated cities of the state as it had previously exercised in other cases. Applicants herein, who were operating at that time and had not already done so, were required to file their schedules of rates and regulations and otherwise comply with the terms of the Public Utilities Act as amended. Schedules so filed were in no wise uniform, being in most instances but memoranda based upon individual experience afforded by the tonnage then available. These schedules were superseded by printed tariffs, known as Warehouse Tariff No. 2, filed on April 4, 1919, the same representing a concerted effort to bring the schedules within the Commission's tariff requirements. Rates and regulations shown in these tariffs were published under authority of Decision No. 6209, dated March 22, 1919, the rates on some of the principal commodities being from 25 to 50 per cent higher than previously in effect. As increased, these rates were designed to produce approximately 25 cents per ton per month storage and 25 cents per ton for the labor costs of handling the commodities into the warehouses and delivering the same. On March 1, 1920, under authority of Decision No. 7118, dated February 11, 1920, the handling charge was increased by 50 per cent, making a charge of 37½ cents per ton. Applicants' schedule now in force (Warehouse Tariff No. 3, C. R. C. No. 3) became effective December 6, 1920, and carries rates and regulations uniform as to all the parties to this proceeding.

In their petition, applicants represent that the existing schedule of rates under which they operate was originally based, in a large measure, upon schedules published and filed by the San Francisco warehousemen in 1912, but was issued without due regard to the reasonableness of the rates so established; that the storage rates are, in the main, still in effect; also that the labor handling charges, as increased by Decision No. 7118, *supra*, are still grossly inadequate. As a result, the application recites that

> Petitioners have been unable to operate their public utility warehouse business at a reasonable profit, and in many instances have been operating at an actual loss.

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Applicants further claim, in their petition, that they are unable to reduce present operating costs, with particular reference to labor, the principal cost item; that the existing low rates hamper expansion of the warehouse business in the city of Los Angeles; that the present system of classifying and rating commodities is obsolete and leads to discriminations; that applicants, in common with other public utility warehousemen, are at all times exposed to unfair competition by unregulated warehouses; all of which matters, together with others enumerated in the petition, and more or less vital to the warehouse industry, have been taken into consideration in compiling the proposed schedule.

Under this application as amended, it is proposed to put into effect at all warehouses operated by the applicants within the city of Los Angeles a schedule of rates, rules and regulations as set forth in exhibit marked "A," attached to and made part of the application. It is proposed to increase the handling charges from a basic rate of 37½ cents per ton to approximately 75 cents per ton, or an advance of 100 per cent. The suggested tariff is a complete departure from the one now in effect; it contains a classification of commodities and a rate table, the plan being to classify the commodities into like groups and assess charges without discrimination, thus eliminating alleged unreasonable differences existing under the specific commodity rates now in effect.

The storage charges under the present tariff are assessed upon an average monthly basis of approximately 5 cents per square foot of floor space, while the proposed rates are computed upon a basis of 6½ cents per square foot. This basic rate, however, is subject to certain modifications governed by the value of the commodity, its liability to leakage, fermentation, vermin, dust or other elements, which add to the ordinary expense of storing merchandise and result in charges against certain specified commodities greatly in excess of the 30 per cent increase represented by changing the rate base from 5 cents to 6½ cents per square foot; in some instances these storage charges would be advanced more than 100 per cent.

Exhibit "B," attached to the application, purports to show, on a tonnage basis, the changes which would result under the proposed new classification and rates. As to storage charges, it is claimed the increases would be offset to some extent by reductions.

A hearing was held on the application at Los Angeles February 4, 1921, at which time the only protestants were representatives of the flour, bakers' supplies and the sugar interests. These protestants, however, presented no concrete figures or substantial facts to justify the claims that their particular commodities should constitute exceptions to the proposed rate schedules.

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At the hearing 23 exhibits were filed; they included schedules in effect in other states, photographs of the Los Angeles warehouses, financial statements and other data. Witnesses testified in detail as to the services, construction costs and the land values of the warehouses in Los Angeles.

Exhibit No. 5 purports to show that of the gross floor area of all warehouses operated by applicants at Los Angeles, amounting to 717,563 square feet, only 70.4 per cent, or 505,486 square feet, are available for actual storage, the remainder being occupied for stairways, elevators, aisles, offices, etc. This exhibit also shows the proportionate rate of tonnage elevated to the various warehouse floors, but since these conditions are not peculiar to Los Angeles warehouses and no modification of the proposed handling charge based upon the elevation cost is involved, the exhibit constitutes a mere matter of information.

Exhibits Nos. 8, 9, 10, 11, 12 and 13 give the earnings and expenses for each of the applicants, except the Pacific Commercial Warehouse Company, that of the Union Terminal Warehouse Company covering a period of seven months, January 1 to July 31, 1920, and for a period of twelve months, August 1, 1919 to July 31, 1920, for the other four companies. The summary carried in Exhibit No. 8 indicates there was a profit during that period of $37,429.45 in the storage operations, and a loss of $50,275.67 in the handling operations, or a net loss during that time to the five companies shown in the statement of $12,851.22.

The value of these exhibits is materially reduced by reason of the fact that in two of the exhibits the figures include nonpublic utility business, while in the other three cases the direct and general expenses have been segregated and apportioned to the various classes of business on a more or less arbitrary basis.

For the Los Angeles Warehouse Company the apportionment of the expenses to the public utility service is on the basis of the income of the total business transacted, which is at a ratio of 65 per cent public utility and 35 per cent nonpublic utility. In the remaining instances the figures used are designed to cover public service only, but the basis for the apportionment of the cost is not shown, although all of the companies, to a greater or less extent, are engaged in nonpublic utility business, such as moving and storing household goods, the trucking and forwarding of merchandise and the rental of space. Again, these exhibits are defective in that the Pacific Commercial Warehouse Company, probably the only applicant doing a strictly public utility business, has not been included in the statements. Neither the exhibits filed nor the testimony of the witnesses gave facts or figures showing detailed valuations of applicants' properties and the separate and common uses involving the utility and nonutility service.

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Of the five companies rendering exhibits of revenues and expenses only one owns the warehouse property devoted to the service; the others pay rent. The company having ownership included in the exhibit, as operating expenses, interest at 8 per cent on the property investment and 6 per cent interest on a mortgage, making a total for interest of $26,349.94. Return on investment can not be included in operating expenses and with this amount eliminated the statement would show, instead of a deficit of $13,006.43, a profit of $13,343.51 for the storage and handling of the public utility business.

The only company devoting itself to strictly warehousing business, all of which by the provisions of the Public Utilities Act is under the jurisdiction of this Commission, is the Pacific Commercial Warehouse Company, incorporated, and this company presented no exhibits of its revenue and expenses. According to the annual report filed February 25, 1921, the company, in the year 1920, had a net operating revenue of $16,779.82 and a net corporate income of $18,372.92; it owns no property, but pays an annual rental of $21,420 for the use of the warehouse devoted to the service. Whether or not this rental charge is reasonable we are unable to state. In addition to the rental there are included in the operating expenses salaries totaling $10,151.16 and a commission amounting to $6,470.19, which latter item, it is understood, is in the form of a bonus paid to the manager of the company. Notwithstanding these extraordinary expense items there was a net corporate income for the year 1920, as heretofore stated, of $18,372.92, or 36¾ per cent per annum upon the capitalization of $50,000. The assets of the company consist of cash, accounts receivable, notes receivable and Liberty bonds, there being no investment in property for the conduct of the business, all the property used apparently being covered by the item for rental. Manifestly, upon the showing made by this company standing alone the Commission could not permit increases in rates.

The annual reports on file with this Commission show that all of the companies earned substantial net profits from their total operations during the year 1920. As shown by the exhibits, the storage operations under the present rates have proved profitable, but the exact amount of the net profit is an element of doubt with all the companies except the Pacific Commercial; this for the reason that no positive basis of segregation of the expenses between utility and nonutility has been given. The Pacific Commercial Company, doing only a storage and handling business, secured large net profits during 1920.

I am of the opinion that a showing justifying any increase in the storage charges has not been made. The application to increase storage charges will, therefore, be denied. In denying this part of the application for an increase in storage charges, I am not unmindful of the fact

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that the proposed classification of the commodities is an improvement upon the present system, but during this period of declining prices advances in rates will not be permitted unless positive and complete justification therefor is shown. It is suggested that the warehousemen make a further study of the situation.

Exhibit No. 19 gives the cost of receiving, piling, and delivering merchandise of different sized packages. The exhibit represents actual results obtained over a period of nine months, April to December, 1920, compiled from data assembled by the Los Angeles Warehouse Company, and shows that the actual labor cost for handling a ton of merchandise twice, that is, into and out of the warehouse, varies from 24 cents to 50 cents, dependent upon the size and weight of the packages handled. This labor cost does not include the time lost while the men on duty are idle, nor incidental expenses, such as insurance, supervision, lights, supplies, damage claims, interest on investment, depreciation or overhead expenses. Another exhibit was presented setting forth the labor handling costs at San Francisco for moving like kinds of merchandise. This report would indicate that although the daily wage paid labor in San Francisco is somewhat higher than that paid in Los Angeles, the actual labor cost per ton for merchandise moved is less at San Francisco than at Los Angeles. The conditions under which the tonnage is handled at these two commercial centers was not presented and, therefore, the comparisons made have no particular value.

The exhibits and the testimony given in this proceeding do not justify increasing the present basic labor handling charge of 37½ cents per ton to 75 cents per ton, an increase of 100 per cent. I am convinced, however, that the rate of 37½ cents per ton is unremunerative. I recommend that the applicants be authorized to establish and apply a basic rate of 50 cents per ton for labor and handling charges; that they also be permitted to establish rules and regulations numbers 1 to 23 inclusive, as set forth in Exhibit "A," attached to and made part of the application. The remainder of the application is dismissed.

ORDER.

Davies Warehouse Company, Los Angeles Warehouse Company, Pacific Commercial Warehouse Company, Santa Fe Warehouse Company, Shattuck and Nimmo Warehouse Company and Union Terminal Warehouse Company having applied to the Railroad Commission for authority to increase storage and labor handling charges now published in Warehouse Tariff No. 3, C. R. C. No. 3, effective December 6, 1920, a public hearing having been held, the matters having been submitted and being now ready for decision, the Railroad Commission finds as a fact that the storage charges have not been found to be unjust or unremunerative, but that the labor handling charges now in effect at

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the various warehouses involved in this proceeding are unremunerative, unjust and unreasonable and that a basic rate of 50 cents per ton is just and reasonable for the labor handling service.

Basing its order on the foregoing findings of fact contained in the opinion preceding this order;

It is hereby ordered, that the Davies Warehouse Company, Los Angeles Warehouse Company, Pacific Commercial Warehouse Company, Santa Fe Warehouse Company, Shattuck and Nimmo Warehouse Company and Union Terminal Warehouse Company be and they are hereby authorized to publish and file with the Railroad Commission, not later than twenty (20) days from the date hereof, tariffs containing labor handling charges on a basic rate of 50 cents per ton.

It is hereby further ordered, that the applicants herein be permitted to establish rules and regulations Nos. 1 to 23 inclusive, as set forth in Exhibit "A," attached to and made part of the application.

It is hereby further ordered, that the remaining part of the application be and the same is hereby dismissed, without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

DECISION NO. 9149.

IN THE MATTER OF THE APPLICATION OF UNION TERMINAL WAREHOUSE COMPANY, A CORPORATION, TO ISSUE AND SELL FIFTY THOUSAND DOLLARS PAR VALUE OF ITS CAPITAL STOCK.

Application No. 6899.

Decided June 24, 1921.

LeRoy M. Edwards, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Union Terminal Warehouse Company asks permission to issue $50,000 of common stock in lieu of a like amount of stock heretofore issued without an order from this Commission.

The record shows that applicant was organized in 1916. On September 13 of that year, the Commissioner of Corporations authorized applicant to issue and sell $50,000 of its stock. At the time, applicant was of the opinion that an order from this Commission, authorizing the issue of stock, was not necessary for the alleged reason that it was not engaged in a public utility business. Applicant has since engaged in such business, and while so engaged, issued stock under the permit

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granted by the Commissioner of Corporations. I am of the opinion that the stock heretofore issued by applicant is void and that the certificates now outstanding should be cancelled and new certificates issued in lieu thereof.

As of April 30, 1921, applicant reports assets and liabilities as follows:

ASSETS.

Fixed assets		$19,900 66
Current assets		89,573 74
Cash	$2,527 15	
Accounts receivable—		
General freight	31,217 38	
Distributed freight	2,077 16	
Storage	26,975 09	
Miscellaneous	1,905 96	
Notes receivable	24,750 00	
Railroad claims	121 02	
Deferred assets		7,008 28
Total assets		$116,482 68

LIABILITIES.

Stock authorized and issued		$50,000 00
Current liabilities		34,552 24
Accounts payable	$2,868 71	
Payroll	62 63	
Accrued taxes payable	4,663 83	
Claims clearance account	177 11	
Notes payable	26,779 96	
Reserve for rent		7,809 90
Reserve for depreciation		750 70
Surplus		23,369 84
Total liabilities		$116,482 68

The current assets include $21,750 of notes payable, which are due from applicant's two principal stockholders and represent the balance due on stock subscriptions. I am of the opinion that applicant's stock subscribers should pay for their stock and proper adjustments made in applicant's accounts.

Applicant began its warehouse business during 1918. It has accumulated a surplus of $23,369.84. Part of this surplus has been obtained from public utility business and part from nonpublic utility business. The testimony shows that approximately 75 per cent of applicant's business is of a public utility character and the remaining 25 per cent, which consists of renting floor space and similar transactions, of a nonpublic utility nature.

I herewith submit the following form of order:

ORDER.

Union Terminal Warehouse Company having applied to the Railroad Commission for permission to issue $50,000 of its common stock, a public

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hearing having been held, and the Commission being of the opinion that applicant's request should be granted;

It is hereby ordered, that Union Terminal Warehouse Company be and it is hereby authorized to issue $50,000 of its common capital stock.

The authority herein granted is subject to the following conditions:

1. The stock certificates now held by applicant's stockholders shall be returned to applicant and cancelled. In lieu of said certificates, applicant may issue to said stockholders the $50,000 of stock herein authorized, provided said stockholders pay the $21,750 of notes given in payment for stock heretofore issued to them. All proceeds realized from the sale of the stock herein authorized to be issued shall be used to finance applicant's properties and for working capital.

2. Union Terminal Warehouse Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before October 1, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

DECISION No. 9150.

IN THE MATTER OF THE APPLICATION OF M. C. AND C. W. LANGSTAFF, FOR PERMISSION TO INCREASE THE RATES OF THE FOREST HILL TELEPHONE EXCHANGE.

Application No. 5633.

Decided June 24, 1921.

TELEPHONE COMPANY—RATE OF RETURN.—While the Commission desires when possible to fix rates which will provide a fair return upon the investment, in addition to the cost of operation and maintenance, where the investment was unfortunate and the utility is constantly losing business, patrons can not be expected to pay undue operating costs.

M. C. Langstaff, for Applicants.

BY THE COMMISSION.

OPINION.

The applicants own and conduct a telephone exchange in Forest Hill, Placer County, and vicinity and furnish toll connections for its subscribers with the lines of The Pacific Telephone and Telegraph Company.

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There were thirty subscribers' stations on this system on August 1, 1920. The rates in effect at present are as follows:

Party-line service:		
Wall sets	per month,	$1 50
Party-line service:		
Desk sets	per month,	2 00
Farmer-line service	per year,	3 00
Inside or outside extensions	per month,	1 00

Applicants requested in their application that the following rates be established:

Business:		
Party-line, wall	per month,	$2 50
Party-line, desk	per month,	3 00
Residence:		
Party-line, wall	per month,	$2 00
Party-line, desk	per month,	2 50
Farmer lines	per year,	$4 00
Inside or outside extensions	per month,	1 50

This increase was asked on account of the increase in labor, supplies and material, and the allegation that the present income did not provide a return on the investment.

A public hearing was held on the application by Examiner Satterwhite. At this hearing applicants stated that they desired to modify their application; they desired to leave the fixing of the increases to the judgment of the Commission, rather than to ask for any specific rates.

An engineer of the Commission made an inspection of the plant and prepared and offered, as an exhibit, an inventory and appraisal as of July 31, 1920. This appraisal shows a reproduction cost on an historical basis of $2,855. The original cost of this property is not available. An examination of the applicants' records of operating revenue and expenses was made for the period from August 1, 1919, to July 31, 1920. Gross revenue was found to have been $720.94; total expenses, $697.70, nothing being included for depreciation of plant. This resulted in a net income of $23.24. Since this time the salary of the operator has been increased. An estimate of all expenses properly chargeable, including operator's present salary, and allowance as salary for the actual time devoted to the maintenance of the plant by the manager and an allowance for depreciation, is the sum of $1,266. We estimate that the rates hereinafter authorized will not quite provide this sum, nor will any interest on investment be earned.

It is our opinion that the applicants should seek to further increase their revenue by securing additional subscribers rather than by obtaining any further increases in rates beyond those provided in the attached order. The Commission desires, if possible, to fix rates which will provide a fair return upon the investment in addition to the cost

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of operation and maintenance. This utility has been steadily losing its subscribers. It had fifty-four subscribers' stations in 1915, while on August 1, 1920, it had thirty. Were this process to continue, the point would be reached where the remaining subscribers would have to pay exorbitant and prohibitive rates in order to provide all the cost of operation and maintenance plus a return upon the investment. It would appear, therefore, that the applicants have made an unfortunate investment, and the subscribers can not be expected to pay undue operating costs arising from this cause.

The rates provided vary but slightly with those asked for by applicants. The scale of rates provided is a more just apportionment of the cost to the different classes of service furnished. The total revenue will be somewhat greater under these rates than under those asked by applicants.

In estimating the amount of revenue to be expected, we have taken into account the fact that a few of the subscribers take service for a part of each year only. These consist of certain mines, remote from the central office. This state of affairs means a loss of revenue to the applicants from idle equipment. Applicants are put to the further expense, in these cases, of disconnecting and reconnecting the services each year.

Applicants are entitled to make a fixed charge for installing instruments, and thereby defray the cost of such installations in the most equitable way. The Commission's Decision No. 8146 in Application No. 5767, rendered September 24, 1920, gave permission to any telephone utility to file within 30 days a rule fixing the following charges:

Installation of individual or party-line service, each station	$3 50
Installation of each extension station	1 50
Installation of service by use of instrumentalities already in place on subscriber's premises, each station	1 50

The time for filing such a rule has expired, but in view of the unusual conditions obtaining herein, it is our opinion that this rule should be put into effect on the applicants' system.

The rates contained in the order contemplate the maintenance, as at present, by the applicants, of all lines in which ownership is claimed and which, in general, and according to the testimony, extend from three to five miles from the central office. There are certain lines extending further into the mountains as continuations of the applicants' lines, principally those serving the mines, above referred to. To maintain these lines would place an abnormal and unreasonable burden upon the applicants. These extensions were built by former subscribers, some of whom have now departed and apparently relinquished their title to the lines. Applicants do not claim the title to these extensions.

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ORDER.

M. C. and C. W. Langstaff, having filed an application with the Railroad Commission for authority to increase rates for service rendered in the applicants' exchange known as the Forest Hill Telephone Exchange, Forest Hill, Placer County, California, and a public hearing on the said application having been held, it is hereby found that the rates heretofore charged for telephone service by said applicants are unjust and inadequate. The rates hereinafter provided are found to be just and reasonable.

Basing its conclusion herein upon said finding and upon the facts set forth in the opinion preceding this order;

It is hereby ordered, by the Railroad Commission, that said M. C. and C. W. Langstaff be and they are hereby authorized to file with the Railroad Commission, within thirty days from the date of this order, and thereafter to charge and collect rates in accordance with the following schedule:

Class of service.	Rate per month
Business service, four-party, wall	$2 25
Business service, suburban, wall	2 50
Residence service, four-party, wall	2 00
Residence service, suburban, wall	2 25
Farmer line service, residence (per year)	3 00
Farmer line service, business (per year)	6 00
Extension, wall or desk, inside	1 00
Extension, wall or desk, outside	1 50

Desk telephones per month 25 cents extra except for extensions and farmer line service.

It is hereby further ordered, by the Railroad Commission, that M. C. and C. W. Langstaff be and they are hereby authorized to file with the Railroad Commission within thirty days and put into effect the rule fixing charges for installation of service as set forth in the preceding opinion.

The authority herein is granted subject to the condition that adequate and efficient telephone service shall be provided.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

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DECISION NO. 9152.

HOWARD THROCKMORTON, LILLIAN PALMER, EMILY E. WILLIAMS AND EDNA F. ANDERSON AND HARRY S. ANDERSON

vs.

ROBERT P. CRISWELL AND HELEN P. CRISWELL.

Case No. 1478.

Decided June 24, 1921.

WATER SYSTEMS—JURISDICTION.—When owners of a water system supply water for a number of years, demand and receive compensation and maintain a regular rate, they come within the provisions of the Public Utilities Act.

M. E. Cerf, for Complainants.

H. A. Hardinge, for Defendants.

BY THE COMMISSION.

OPINION.

This is a complaint involving the question of water service to three dwellings of complainants herein situated in the Santa Cruz Mountains, about four miles from the city of Los Gatos, Santa Clara County, California. It is alleged, in effect, in the complaint that the defendants are and have been operating a public utility water system for a considerable time, supplying water to complainants for compensation; that due to the fact that defendants have used large quantities of water from the system for their own private interests the supply to complainants has become inadequate. It is further alleged that defendants have sold a part of their water system which is necessary and useful to the utility in the performance of its duties to its consumers.

Defendants in their answer deny that they are or have been operating a public utility water system, and aver that the complainants, with the exception of Howard Throckmorton, who has a contract whereby the defendants are to supply him with 200 gallons of water per day from certain described springs, have been supplied with water as a matter of accommodation; that defendants have accepted a small sum of money for the same for the purpose of repairing pipes and to prevent complainants from acquiring an interest in the system; that the shortage in the water supply was due to the decrease in the output of the springs which have supplied these consumers in the past, and it is further alleged that the water has been furnished to the complainants at a loss to the defendants.

A public hearing was held in Los Altos on January 4, 1921, and in San Francisco on April 26, 1921, before Examiner Satterwhite.

The water for the system in question is supplied at present from a developed spring, which was designated as Spring No. 2 on complainant's Exhibit "O." From the spring the water is carried through

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pipes by gravity to the consumers. The storage consists of a 2000 gallon redwood tank, in addition to which each of the three premises have an independent tank on their own property.

The evidence shows that the complainants purchased their lands from the defendants, and subsequent to building their dwellings thereon have been supplied with water for domestic purposes by defendants. This service dates back a number of years. There was considerable testimony introduced to show that defendants had demanded and received compensation for this service. It was shown that the present rate in effect to all three consumers is $18 per year.

It was testified that during the summer of 1920 the complainants suffered considerable loss and inconvenience due to lack of an adequate supply of water to meet their needs for domestic use. It was also shown that during this time there were two other dwellings in which the defendants were interested that were supplied from the same system as were the complainants.

A report by Mr. J. G. Hunter, one of the Commission's hydraulic engineers, was introduced in evidence, showing the results of a field inspection made by him on March 29, 1921. On that date Mr. Hunter found that service had been discontinued to the two dwellings referred to above, the supply being devoted entirely to the premises of complainants. He also found that the pipe system supplying complainants' dwellings had recently been improved by replacing old pipe with new and at certain points by substituting pipe of larger diameter, the system appearing to be in good condition and the water supply ample on that date.

It was testified by Robert P. Criswell, one of the defendants, that it was the intention of Mrs. Criswell, as well as himself, to allow the complainants all the water from Spring No. 2 in the future, in so far as they could control it; that by not allowing any other services to be connected to this system, he felt certain good service could be maintained in the future to these consumers, as the minimum known flow, which occurred last summer after three years of extreme drought, was approximately 600 gallons per day.

The evidence shows that the defendants have a number of springs on their land in this district, in addition to Spring No. 2, some of which are still undeveloped. We understand these additional springs are so situated that by the installation of gravity lines their waters could be added to the supply of the system.

It was developed during the proceedings that the sale of land containing springs necessary to the water system referred to in the allegations of the complaint as land sold to one Wilson by the defendants, has,

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subsequent to the filing of this complaint, been cancelled. The title to this property now stands in the name of the defendants, as originally.

From the evidence introduced in this case, it is quite clear that defendants have been operating a public utility water system; therefore, under the provisions of the Public Utilities Act they are required to serve water in sufficient quantities to meet the domestic needs of complainants as consumers.

Defendants have not heretofore filed their schedule of rates, rules and regulations with this Commission. They should immediately comply with the provisions of the Public Utilities Act in this regard.

It appears that except as recited above the matters covered by this complaint have been satisfied and that the same should be dismissed.

ORDER.

Complaint having been filed with the Railroad Commission by Howard Throckmorton, Lillian Palmer, Emily E. Williams, Edna F. Anderson and Harry S. Anderson against Robert P. Criswell and Helen P. Criswell, a public hearing having been held, and the matter having been submitted:

It is hereby found as a fact that Robert P. Criswell and Helen P. Criswell, in owning and operating a water system and serving certain consumers for compensation in section 36, township 8 south, range 2 west, Mount Diablo Base and Meridian, are conducting a public utility within the meaning of the Public Utilities Act.

And basing its order upon the foregoing finding of fact and upon the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, by the Railroad Commission of the State of California, that Robert P. Criswell and Helen P. Criswell file with this Commission within twenty (20) days of the date of this order the rates charged to consumers in section 36, township 8 south, range 2 west, Mount Diablo Base and Meridian, for water service.

It is hereby further ordered, that Robert P. Criswell and Helen P. Criswell be and they are hereby directed to file with the Railroad Commission for its approval, rules and regulations governing the furnishing of water to their consumers as above, said rules and regulations to be filed within thirty (30) days of the date of this order, and to become effective within five (5) days of the date of their acceptance.

It is hereby further ordered, that in all other respects the complaint herein be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

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DECISION No. 9153.

IN THE MATTER OF THE APPLICATION OF UNITED RAILROADS OF SAN FRANCISCO, OF MARKET STREET RAILWAY COMPANY, AND OF FRANK B. ANDERSON, WILLIAM H. CROCKER, HERBERT FLEISHHACKER, JOHN D. McKEE AND E. S. HELLER, AS A REORGANIZATION COMMITTEE OF UNITED RAILROADS OF SAN FRANCISCO, FOR AUTHORIZATION TO ISSUE STOCKS, BONDS AND NOTES, AND TO TAKE PROCEEDINGS PURSUANT TO A REORGANIZATION PLAN AND AGREEMENT.

Application No. 5840.

Decided June 24, 1921.

RAILWAY REORGANIZATION—JURISDICTION.—As none of the reorganization expenses are to be charged to capital account, but to be paid out of net earnings, the Commission is without jurisdiction.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

By Decision No. 8482, dated December 22, 1920, the Commission authorized the issue of stocks, bonds and notes, and the performance of other acts, necessary to carry into effect the reorganization plan of the United Railroads of San Francisco, subject, among others, to the following condition:

> The Reorganization Committee and other applicants in this proceeding shall file with the Railroad Commission a statement showing the reorganization expenses. No such expenses shall be paid unless approved by the Commission, or the Reorganization Committee, and applicants advised that the approval by the Commission of the payment of the expenses is not necessary. There shall also be filed with the Commission by a person or persons properly authorized a stipulation to be approved by the Commission to the effect that the reorganization expenses will, at such time, in such amounts and in such manner as the Railroad Commission may order, be amortized out of income.

A statement of the reorganization expenses has been filed with the Commission and it appears therefrom that all of said expenses will be paid out of the net earnings of the United Railroads of San Francisco, such payment having been made possible through the nonpayment of interest on the United Railroads of San Francisco 4 per cent bonds. It is therefore to all intents and purposes the bondholders' own money which will be used to pay the reorganization expenses and the bondholders have apparently given their consent to this disbursement of their funds. It further appears that none of the reorganization expenses will be charged to the capital account of, or be paid out of the income of Market Street Railway Company. Under these circumstances, the Commission necessarily concludes that it has no jurisdiction over the proposed payment of the reorganization expenses. Therefore, it is not proper to investigate certain charges and expenses which appear excessive and payment of which would only be sanctioned by the Com-

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mission after strict inquiry and justification if the funds to be used were subject to the Commission's control. Now, therefore;

It is hereby ordered, that the supplementary petition filed in the above entitled matter on May 19, 1921, be and it is hereby dismissed for want of jurisdiction.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

DECISION No. 9155.

IN THE MATTER OF THE APPLICATION OF THE DE PUE WAREHOUSE COMPANY, KITRICK AND HALL WAREHOUSE COMPANY, HOCHHEIMER AND COMPANY, FOR AUTHORITY TO INCREASE AND ADJUST WAREHOUSE RATES AT THEIR RESPECTIVE WAREHOUSES LOCATED AT POINTS IN THE NORTHERN SACRAMENTO VALLEY.

Application No. 6940.
Application No. 6941.
Application No. 6942.
Decided June 24, 1921.

BY THE COMMISSION.

ORDER.

The De Pue Warehouse Company, Kitrick & Hall Warehouse Company and Hochheimer & Company have applied to the Railroad Commission for authority under sections 15 and 63 of the Public Utilities Act to increase and adjust rates charged for storage and services at the petitioners' respective warehouses located at points in the Sacramento Valley.

In support of the applications, it is alleged that because of increases in the cost of labor and supplies since the rates now in effect were established sufficient revenue has not resulted to meet all the operating expenses and produce a fair return upon the value of the property devoted to the public service.

Verified exhibits are attached to each of the applications, showing the value of the investment, revenues, expenses and the net income, also the tonnage handled and the amount of additional revenue which would accrue to the applicants through readjustment of the rates. The adjustments are being made primarily to remove inequalities at the different warehouses and the additional net revenue would be very small in amount. The increases in the storage rates applying to beans are merely on paper, as no beans are stored at the warehouses involved in this proceeding, the buildings being devoted almost entirely to the storage of grain. The changes in the grain rates will result in increasing a few of the season rates, running from 5 cents to 25 cents per ton.

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The applicants have stipulated that if protests of merit against the readjustment of rates are filed with the Commission the former rates will be immediately restored, pending investigation, and if the Commission orders restoration of the old rates that refund of excess collections will be made.

The Commission is of the opinion that a formal hearing on these applications is not necessary and finds as a fact that the rates set forth therein have been justified and should be permitted to go into effect.

It is hereby ordered, that the De Pue Warehouse Company, Kitrick & Hall Warehouse Company and Hochheimer & Company be and the same are hereby authorized to publish and file with the Railroad Commission tariffs containing the changes in rates as set forth in the applications, which rates are found to be just and reasonable.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

DECISION No. 9156.

IN THE MATTER OF THE APPLICATION OF CHICO WATER SUPPLY COMPANY, A CORPORATION, FOR AN INCREASE IN RATES AND CHARGES FOR WATER FURNISHED ITS CONSUMERS IN THE CITY OF CHICO AND ADJACENT TERRITORY.

Application No. 5524.

Decided June 24, 1921.

WATER UTILITIES—SERVICE—METERS.—Public water utilities shall own and install at their own expense all service connections to the consumers' property line, including meters.

Guy R. Kennedy, for Applicant.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

On April 9, 1921, this Commission rendered its Decision No. 8839 in the above entitled proceeding, establishing therein a schedule of rates to be charged for water furnished by Chico Water Supply Company.

Subsequent thereto applicant advised the Commission that said rate schedule does not include charges applicable to several consumers owning their own meters who are provided with standby metered service and use water only in the emergency that their private water supplies fail. The request is made that standby rates be fixed for such service.

Attention is directed to Rule 13 laid down by this Commission in Case No. 683, Decision No. 2879, rendered November 5, 1915 (Volume 8, page 372, Opinions and Orders of the Railroad Commission of California), wherein it is directed that public water utilities shall own

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and install at their own expense all service connections to the consumers' property line, including meters. This utility should arrange to install its own meters for consumers receiving above mentioned service or enter into some satisfactory arrangement to take over all present privately owned meters.

It appearing that a public hearing in this matter is unnecessary;

It is hereby ordered, that the Chico Water Supply Company be and it is hereby authorized to file with the Railroad Commission within twenty (20) days of the date of this order the following schedule of rates for standby water service, said rates to supplement the schedule of rates heretofore established in Decision No. 8839 and to become effective for all service rendered subsequent to June 30, 1921.

RATES.

1. Monthly payments for standby service:

For 2-inch meter	$1 25
For 3-inch meter	1 75
For 4-inch meter	2 25
For 6-inch meter	3 00

2. In addition for all water actually used on standby services, payments shall be made at the regular monthly quantity rates in effect for metered use.

It is hereby further ordered, that above rates for standby service may only be charged in case the Chico Water Supply Company owns the meter in connection with such service.

Dated at San Francisco, California, this twenty-fourth day of June, 1921.

DECISION No. 9168.

IN THE MATTER OF THE CONSTRUCTION AND OPERATION OF ELECTRIC UTILITIES DURING THE EMERGENCY CREATED BY WAR.

Case No. 1176.

IN THE MATTER OF THE CONSTRUCTION AND OPERATION OF ELECTRIC UTILITIES AND THE DISTRIBUTION AND TRANSFER OF ELECTRICITY DURING THE PRESENT EMERGENCY CREATED BY THE POWER SHORTAGE, ON THE COMMISSION'S OWN MOTION.

Case No. 1426.

Decided June 27, 1921.

POWER ADMINISTRATION—SERVICE.—Possibility of serious interruption of service or of complete shutdown, due to abnormal conditions of war needs and power shortage avoided.

Power Administrator discontinued, with passing of emergencies of war needs and power shortage.

BY THE COMMISSION.

SUPPLEMENTAL OPINION.

The position of Power Administrator was created by the Commission in the above entitled proceeding, Case No. 1176, for the purpose of

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exercising a more effective regulatory control over the development, conservation, and use of electric power during the war emergency. Thereafter a serious water shortage, and consequent power shortage, developed, and the Commission, through its order of March 24, 1920, Case No. 1426, continued the work of the Power Administrator.

A most valuable service has been rendered to the consumers by the power companies through this feature of regulation. The possibility of serious interruptions in service or of complete shutdown, by reason of the abnormal conditions of war needs and of power shortage, has been avoided. This was due to the fact that the Power Administrator, with the cooperation of the power companies, virtually pooled all the power resources of the state, and thus was able to effectively supervise and regulate the uses for which power was available. By shifting of loads, interchange of power, and reasonable restrictions on the less important uses, the highest efficiency and use of all available power has been accomplished. In this state where much of the agricultural as well as industrial development depends directly upon the availability of electric power it is of vital importance that a shortage in this all important commodity be avoided.

It is equally apparent that the collection of data and the coordination of power uses under the supervision of the Power Administrator have been of great value to the power companies themselves, and it would appear that this is a work which could well be continued to advantage by the companies. It is no longer necessary, however, since the emergencies of war needs and of power shortage have passed, that the Commission, in the exercise of its regulatory powers under the Public Utilities Act, should continue this work of supervision. The position of Power Administrator will therefore be discontinued. Should the occasion arise in the future the Commission can and will take appropriate action for the resumption of this feature of regulation.

Good cause appearing therefor:

SUPPLEMENTAL ORDER.

It is hereby ordered, that the position of Power Administrator, heretofore created by the orders of this Commission of June 22, 1918, Decision No. 5503, and of March 24, 1920, Decision No. 7312, be and the same is abolished.

Dated at San Francisco, California, this twenty-seventh day of June, 1921.

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DECISION NO. 9169.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA-OREGON POWER COMPANY, A CORPORATION, FOR AN ORDER READJUSTING AND FIXING ITS RATES AND CHARGES FOR ELECTRIC ENERGY UNDER SCHEDULES NOS. 4, 5 AND 6 UNDER DECISION 6484 AND SCHEDULE NO. 7 UNDER DECISION 6511, AND MODIFYING CERTAIN SPECIAL POWER CONTRACTS.

Application No. 5895.

Decided June 27, 1921.

CONTRACTS—RATES—JURISDICTION.—Commission has power to abrogate contracts that provide for deviations from filed rate schedules.

RATE OF RETURN.—When a large part of its product is sold at a low price voluntarily agreed upon, revenue from consumers served under a rate schedule can not be increased to insure a return that under normal conditions would be considered reasonable. Applicant allowed an increase of 5 to 10 per cent over present schedules.

Morrison, Dunne and Brobeck, by *E. S. Taylor*, and *Tapscott and Tapscott*, by *James R. Tapscott*, for Applicants.

Robbins, Elkins and Van Fleet, by *Carey Van Fleet*, for Big Springs Water Company and Lucerne Water Company.

McCutchen, Willard, Mannon and Greene, by *A. P. Matthew*, for Shasta River Water Association.

L. Cassidy, for Federal Land Bank of Berkeley.

H. G. Ley, for City of Yreka, Board of Trustees.

B. T. Collier, of *Collier and McNamara*, for Mount Shasta Land and Irrigation Company, Mount Shasta Milling Company, Montague Creamery, Town of Montague, and Manuel Shelley.

BY THE COMMISSION.

OPINION.

California-Oregon Power Company, hereinafter referred to as applicant, in this application alleges that costs of operation and maintenance have increased since its rates were last under review by the Commission, and requests authority to increase the charges under certain specified schedules, which cover power service, and to modify and increase the rates for service supplied to certain consumers under special contracts.

Public hearings were held before Examiner Satterwhite at Yreka September 22 and 23, 1920, at which evidence was introduced and protests were heard. The matter was at that time submitted on condition that if an anticipated compromise between applicant and three of the protestants should not be reached and approved by the Commission, the proceeding would be reopened. The anticipated compromise has been effected and approved, and the matter is now ready for decision on the remainder of the application.

It was stipulated at the hearing that the annual reports of applicant filed with the Commission and certain specified additional data called for by attorneys and by the Commission should be considered in evidence.

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The rates now being charged by applicant were fixed by this Commission in its Decision No. 6484, dated July 10, 1919 (Opinions and Orders of the California Railroad Commission, Volume 17, page 23), and one schedule was slightly modified by supplemental order in the same proceeding, Decision No. 6511, dated July 18, 1919 (Opinions and Orders of the California Railroad Commission, Volume 17, page 74). Reference is made to the first of these decisions for a general discussion of applicant's properties and their value for rate-making purposes.

Applicant, sometime past, entered into long term contracts with Shasta River Water Association and Big Springs Water Company for supplying energy to operate their irrigation pumping plants. Not only were the rates embodied in these contracts low, but they were based on the amount of land irrigated rather than on the amount of electrical energy consumed, and have been the source of misunderstanding and disagreement. A contract with the Lucerne Water Company entered into under somewhat similar conditions provided for the sale of electric energy at a comparatively low meter rate.

Compromise agreements reached in connection with this proceeding provide comparatively low rates, but based on energy consumed instead of on the area of land under irrigation, and relieve applicant of certain burdens in connection with the operation of consumers' pumping equipment. These contracts are satisfactory both to protestants and to applicant and have received the approval of the Commission.

Mount Shasta Milling Company appeared to defend a special contract between it and Siskiyou Electric Power and Light Company, a predecessor of California-Oregon Power Company. The contract in question, which was introduced in evidence, was executed in 1908, and provided that applicant's predecessor should take over an electric distribution system in the town of Montague, theretofore operated by Mount Shasta Milling Company, and in return should furnish the Milling Company power without charge, under specified limitations, until 1923. Applicant urges that this contract should be set aside and this consumer charged for power as are other similar consumers, while Mount Shasta Milling Company contends that such action is beyond the jurisdiction of this Commission.

The Public Utilities Act, section 17 (*b*), definitely forbids deviations from filed rate schedules, except with the permission of the Commission, and the Supreme Court of the state has, many times, sustained the Commission in the removal of deviations and the modifications of rates specified in contracts. There is no question as to the matter of jurisdiction, and we may consider the case on its merits. That the compensation which the predecessor of California-Oregon Power Company offered Mount Shasta Milling Company in exchange for valuable property should later be declared illegal does not alter the obligation

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originally incurred. The discrimination should be removed and Mount Shasta Milling Company served at published rates, but applicant must, in some manner, complete payment for the property acquired under the terms of the contract in question.

Since the previous decision the arrangement by which California-Oregon Power Company delivers a large part of its output to the system of Pacific Gas and Electric Company at Kennett has become fully operative and applicant's plants are now well loaded. The new Copco plant should, therefore, be included in operative property and with miscellaneous additions and betterments brings the value of property, used and useful in the public service, up to $4,427,818, as of May 31, 1920, as set forth in applicant's Exhibit "E."

The following table, compiled from applicant's exhibits, shows the result of its operations during the two years just previous to the filing of this application. The effect on the revenues of the delivery of power to Pacific Gas and Electric Company is plainly apparent.

TABLE NO. 1.
California-Oregon Power Company, Operating Revenues and Expenses.

	June 1, 1918 to May 31, 1919	June 1, 1919 to May 31, 1920
Revenues—		
Light	$76,310 00	$79,482 00
Power	146,158 00	437,856 00
Miscellaneous	2,612 00	1,745 00
Total	$225,080 00	$519,083 00
Operating expenses—		
Production	$18,842 00	$20,402 00
Transmission	13,458 00	22,526 00
Distribution	9,046 00	14,396 00
Commercial	8,533 00	13,116 00
General	47,349 00	52,306 00
Taxes (prorated)	13,967 00	19,727 03
Bad debts (prorated)	2,229 00	5,173 00
Total	$113,424 00	$147,646 00
Net for depreciation and return	$111,656 00	$371,437 00

The net revenue of $371,437 for the year ending May 31, 1920, when compared with the capital of $4,427,818, shows a return of 8.4 per cent available for depreciation and interest. In the previous decision 2 per cent was used as a reasonable and approximate allowance for depreciation on the property exclusive of the Copco development. The inclusion of the Copco development, consisting as it does of a comparatively large investment in long-lived property, would reduce the reasonable depreciation allowance to the neighborhood of 1.4 per cent on the total capital and the net return on the value of applicant's property, after allowing for depreciation, was approximately 7 per cent.

Operating expenses continued to increase after May, 1920, and while the present tendency is downward, the figures given do not represent

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the peak of costs. The item of taxes will be materially greater than indicated, one reason therefor being because the state tax on revenue from sales to Pacific Gas and Electric Company is not fully reflected. Had present conditions been fully operative, the taxes would have been approximately $40,000 instead of $19,727 as shown.

Applicant's rates, when compared with those charged by other utilities in other parts of the state, are found to be relatively low, and applicant can hardly be expected to continue to earn a low rate of return while charging its consumers less than they would be charged for similar service from other utilities. On the other hand, rates which were initially established by applicant itself at low levels have been made the basis of uncompleted business operations of its consumers, and in a period of decreasing prices can not be too sharply increased; moreover, approximately 80 per cent of the energy delivered in California is sold to three special irrigation consumers at a low price voluntarily agreed upon, and to Pacific Gas and Electric Company at a rate limited by the value of power delivered at a remote part of its system and in competition with its own hydroelectric plants. With these limitations in mind it is plainly apparent that the revenue from consumers served under the rate schedules specified in the application can not and should not be increased to insure the return on applicant's property which, under more favorable conditions and in a more highly developed territory, might be considered reasonable. The rates in the order which accompanies this opinion represent an increase of some 5 or 10 per cent over the present schedules and are as high as applicant can reasonably expect to charge at this time.

ORDER.

California-Oregon Power Company having applied to the Railroad Commission for authority to readjust its rates and charges for electric service, a hearing having been held, the matter having been submitted and being now ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that the rates and charges heretofore made by California-Oregon Power Company are unjust and unreasonable in so far as they differ from the rates and charges herein set forth, which are hereby found to be just and reasonable rates to be charged and collected by California-Oregon Power Company.

Basing its order on the foregoing finding of fact and on the findings of fact in the opinion which accompanies this order;

It is hereby ordered, that California-Oregon Power Company be and it is authorized to readjust its schedules numbered 4, 6 and 7 by substituting for the rates heretofore charged and collected the following

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schedules of rates; to be effective based on meter readings taken on and after July 15, 1921.

SCHEDULE No. 4.
General Power Service.

Applicable to service for industrial and agricultural purposes.

Territory.

Applicable to entire territory in California served by the company.

Rate.

1. For connected loads of less than 5 horsepower.
   First 150 kilowatt hours per meter per month_____6 cents per kilowatt hour
   Next 350 kilowatt hours per meter per month_____3 cents per kilowatt hour
   All over 500 kilowatt hours per meter per month_____1½ cents per kilowatt hour
2. For connected loads of 5 horsepower and over.

Consumption per horsepower per month	Rate per kilowatt hour per connected loads of						
	5 to 14 horsepower, cents	15 to 39 horsepower, cents	40 to 74 horsepower, cents	75 to 149 horsepower, cents	150 to 299 horsepower, cents	300 to 599 horsepower, cents	600 horsepower and over, cents
First 50 kilowatt hours____	5.0	4.4	3.8	3.2	2.7	2.3	2.0
Next 100 kilowatt hours____	2.7	2.2	2.0	1.6	1.4	1.2	1.0
All over 150 kilowatt hours	1.5	1.1	1.0	0.8	0.8	0.75	0.7

Minimum.

First 4 horsepower of connected load $1.25 per horsepower per month but not less than $2.50 per month.

All over 4 horsepower of connected load $1.00 per horsepower per month.

Special conditions.

(*a*) In the case of service for irrigation pumping or other seasonal use the minimum may, at the option of the consumer, be on an annual instead of a monthly basis, and will be payable in six equal monthly installments during six consecutive months to be chosen by the consumer.

(*b*) Any installation may obtain the rates for a larger installation by guaranteeing the rates and minimum applicable to the larger installation.

(*c*) The company will, on the request of consumers having a total connected load of 100 horsepower, or more, consisting of two or more motors, install demand indicating instruments, and the rate, but not the minimum charge, will be based on the maximum 15-minute average demand occurring during each month, instead of on the connected load. The maximum demand shall not be considered as less than the size of the largest motor nor less than half of the total connected load.

SCHEDULE No. 6.
Lumber Company and Box Factory Service.

Applicable to installations of 300 horsepower or over in sawmills, box factories, etc.

Territory.

Entire system in California.

Rate.

(*a*) Energy furnished at primary voltage.
First 25,000 kilowatt hours per meter per month_____1.0¢ per kilowatt hour
Next 150,000 kilowatt hours per meter per month_____0.85¢ per kilowatt hour
All over 175,000 kilowatt hours per meter per month_____0.75¢ per kilowatt hour

(*b*) Energy furnished at secondary voltage.
First 25,000 kilowatt hours per meter per month_____1.1¢ per kilowatt hour
Next 150,000 kilowatt hours per meter per month_____0.85¢ per kilowatt hour
All over 175,000 kilowatt hours per meter per month_____0.75¢ per kilowatt hour

Minimum charge.

First 200 kilowatts of maximum demand per month____$1 00 per kilowatt hour
All over 200 kilowatts of maximum demand per month____ 80 per kilowatt hour
But not less than $250 per month.

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Special conditions.

(*a*) The maximum demand herein referred to is the maximum 15-minute average demand measured in kilowatts occurring during the month for which the bill is rendered, but shall not in any case be considered as less than 50 per cent of the capacity of transformers installed.

(*b*) At the option of the company the maximum demand used in billing may be 80 per cent of the demand measured in kilovolt amperes.

SCHEDULE No. 7.
Gold Dredging Service.

Territory.

Applicable to entire territory in California served by company.

Rate.

First 100,000 kilowatt hours per meter per month_____1.0¢ per kilowatt hour
All over 100,000 kilowatt hours per meter per month_____0.75¢ per kilowatt hour

Minimum charge.

$1.00 per month per horsepower of connected load.

Special conditions.

Energy will be supplied at the primary distribution voltage of 2300, 4000, 6600 or 11,000 volts, depending on locality in which service is desired.

It is hereby further ordered, that California-Oregon Power Company be and it is authorized to cancel and withdraw its Schedule No. 5 as heretofore in effect.

It is hereby further ordered, that California-Oregon Power Company shall, within ten days after the date of this order, file with this Commission the rates hereinabove set forth.

Dated at San Francisco, California, this twenty-seventh day of June, 1921.

DECISION No. 9170.

IN THE MATTER OF THE APPLICATION OF RUSSIAN RIVER WATER COMPANY FOR PERMISSION TO ACQUIRE UTILITY PROPERTIES OF MOUNT JACKSON WATER AND POWER COMPANY, RUSSIAN RIVER HEIGHTS WATER COMPANY AND GUERNEWOOD PARK DEVELOPMENT COMPANY.

Application No. 6388.

Decided June 27, 1921.

A. F. Lemberger, for Applicants.

BY THE COMMISSION.

OPINION.

Russian River Water Company asks permission to purchase the properties of Mount Jackson Water and Power Company and Russian River Heights Water Company and the water system of Guernewood Park Development Company and to issue in payment thereof its common capital stock, at par, in such amounts as shall be determined by the Railroad Commission. Guernewood Park Development Company, Mount Jackson Water and Power Company, and Russian River Heights

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Water Company join in the application in so far as it relates to the sale of properties owned by them.

A public hearing in this matter was held before Examiner Satterwhite in San Francisco on February 21, 1921. Recently applicants have filed certain information requested at the hearing and the matter is now ready for decision.

In brief, this application involves the consolidation, under one ownership and management, of four different water systems. It is the intention of Russian River Water Company to acquire free and clear of all liens and encumbrances, all of the operative properties, water rights, rights of way and easements in conjunction therewith now owned by the other companies, and any and all necessary lands now used, occupied or useful and necessary in conjunction with such operative properties, and any and all leases, easements or appurtenances belonging to or appurtenant to the properties.

The record shows that Guernewood Park Development Company was incorporated on July 30, 1918, with an authorized capital stock of $50,000, all of which is reported to be outstanding. It is primarily a realty company, operating the water system in conjunction with its land business. This application involves the sale of its public utility water properties only. The company serves about 210 consumers at Guernewood Heights, Guernewood Park and Guerneville.

Mount Jackson Water and Power Company was incorporated on September 28, 1908, and has an authorized and outstanding stock issue of $20,000 of common stock. It operates in and about El Bonito, Rionido and Westover Heights, serving about 197 consumers.

Russian River Heights Water Company, which was incorporated in October, 1904, serves about 82 consumers in Greystone, Montesano and Russian River Heights. All of the authorized capital stock of $2000 is outstanding.

Russian River Water Company, organized on April 12, 1917, has an authorized capital stock of $100,000 of common and $25,000 of preferred. Of the common stock, $18,400 has been issued and is outstanding. The company operates in Monte Rio and adjacent territory, reporting about 379 consumers.

The towns and communities served by the four utilities are practically contiguous, being situated along the Russian River in Sonoma County, and, with the exception of Guerneville and Monte Rio, have substantially a summer population only.

It appears that the consolidation will effect economies in overhead, labor and other operating charges, and should benefit the public by improving service and increasing the water supply. It is believed

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that the financial basis of Russian River Water Company will be strengthened and will permit it to procure additional funds with which to install extensions, additions and betterments necessary to insure an adequate and uninterrupted service to consumers. The various systems are so situated that they can be easily interconnected. The record shows that since July 1, 1920, Russian River Water Company has been operating the other companies under a mutual agreement.

The Commission's hydraulic division has made an estimate of the present value of the properties to be transferred. In recent rate cases the Commission's engineers have estimated the original cost of the physical properties of Guernewood Park Development Company, including public utility property only, as of June 1, 1920, at $14,329; of Mount Jackson Water and Power Company, as of January 1, 1919, at $12,507; and of Russian River Heights Water Company, as of January 1, 1919, at $6,590. It is reported that additions and betterments since the date of the respective appraisements have been made by Russian River Water Company. These appraisals include physical properties only and include no value for lands, water rights and rights of way.

Using the estimated original cost as a basis, the Commission's engineers have estimated the present value of the physical properties of Guernewood Park Development Company at $10,750, of Mount Jackson Water and Power Company at $10,000, and of Russian River Heights Water Company at $5,000. Adding to these figures allowances for lands, water rights and rights of way, the Commission's engineers estimated for the purpose of this proceeding the present value of the properties to be transferred, as follows:

Guernewood Park Development Company	$18,600 00
Mount Jackson Water and Power Company	16,250 00
Russian River Heights Water Company	10,375 00
Total	$45,225 00

We are of the opinion that Russian River Water Company should be permitted to issue $45,225 of stock to acquire the properties mentioned in this application.

ORDER.

Application having been made to the Railroad Commission for permission to transfer properties and to issue stock, a public hearing having been held, and it appearing to the Railroad Commission that the application should be granted and that the money, property or labor to be procured or paid for by the issue of stock herein authorized is reasonably required for the purpose or purposes specified herein and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

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It is hereby ordered, that Guernewood Park Development Company, Mount Jackson Water and Power Company, and Russian River Heights Water Company be and they are hereby authorized to sell, and Russian River Water Company be and it is hereby authorized to purchase, free and clear of all liens and encumbrances, the properties referred to in this application, such transfer of properties to take effect as of January 1, 1921.

It is hereby further ordered, that Russian River Water Company be and it is hereby authorized to issue, at par, $45,225 of its common capital stock.

It is hereby further ordered, that Guernewood Park Development Company, Mount Jackson Water and Power Company, and Russian River Heights Water Company be and they are hereby authorized to acquire the stock which Russian River Water Company is herein authorized to issue to them in exchange for properties.

The authority herein granted is subject to the following conditions:

1. Out of the stock herein authorized, $18,600 shall be issued in full payment for the properties of Guernewood Park Development Company herein authorized to be transferred; $16,250 in full payment for the properties of Mount Jackson Water and Power Company and $10,375 in full payment for the properties of Russian River Heights Water Company.

2. The price at which the properties are herein authorized to be transferred shall not be binding upon this Commission, or any other public body having jurisdiction, as a measure of value of said properties for rate making or for any purpose other than the transfer herein authorized.

3. Within sixty days after the execution of the instruments conveying the properties herein authorized to be transferred, certified copies of each and every such instrument of conveyance shall be filed with the Railroad Commission by the Russian River Water Company.

4. Russian River Water Company, within sixty days after the transfer of the properties herein authorized, shall file with the Railroad Commission for approval copies of all book entries relating to the transfer.

5. Russian River Water Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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6. The authority herein granted shall apply only to such property as may be transferred and to such stock as may be issued on or before November 30, 1921.

Dated at San Francisco, California, this twenty-seventh day of June, 1921.

DECISION No. 9171.

IN THE MATTER OF THE APPLICATION OF WHITTIER WATER COMPANY FOR AUTHORITY TO INCREASE RATES.

Application No. 4815.

Decided June 28, 1921.

BY THE COMMISSION.

ORDER DISMISSING APPLICATION AS TO CERTAIN PROTESTANTS.

Application having been filed herein, by the Whittier Water Company, on August 2, 1919, for authorization to increase rates, charged and collected by said applicant, for the service of water; and, upon the hearing on said application, certain consumers of said applicant having filed their formal protests, objecting to the Commission's jurisdiction over the service of water by applicant to said protestants, pursuant to certain deeds and contracts referred to in said written protests; and said protestants having formally objected to the introduction of any testimony offered by applicant in so far as the same related to the service, or terms of service, of water by said applicant to said protestants; and the Commission having thereupon withheld its ruling on said objection and proceeded with the taking of testimony and the introduction of other evidence upon the preliminary question of jurisdiction; and it now appearing to the Commission that the service of water by the applicant to the said protestants, in the amounts and under the terms of their respective deeds or contracts referred to in their protests, is not a service by the applicant to the public, or any portion thereof, for compensation, and is not a service by said applicant as a public utility, subject to regulation by this Commission, under the provisions of the Public Utilities Act, or other provision of law;

It is hereby ordered, that the objections of the protestants hereinafter named to the introduction by applicant, or the consideration by the Commission of evidence offered in support of the application, in so far as the same relates to the service of water by applicant to said protestants, under the terms of the deeds or contracts referred to in the written protests of said protestants, on file herein, is sustained; and,

It is further ordered, that the said application be and the same is hereby dismissed as to said protestants, in so far as it refers to service of water by applicant to said protestants, under the terms of the deeds

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or contracts of said protestants referred to in their respective protests. The objection to testimony is sustained and the application is dismissed as to the following protestants: La Habra Heights Mutual Water Company, and La Habra Heights Company; N. T. Edwards et al., joining in protest filed herein April 27, 1920; George L. Hazzard et al., joining in protest filed herein April 27, 1920; A. W. Allison et al., joining in protest filed herein April 27, 1920, on behalf of certain stockholders of Santa Gertrudes Irrigation Company, a corporation; the Santa Gertrudes Irrigation Company, a corporation; Standard Oil Company, a corporation; H. A. Dunham et al., joining in protest filed herein April 27, 1920, on behalf of owners of land and water rights in Rancho Paso De Bartolo; S. Clarence Rees et al., joining in protest filed herein April 27, 1920, on behalf of deeded owners in Stamy tract; Orchard Dale Land and Water Company, a corporation; Samuel P. Mendenhall and Leland B. Cook, joining in protest filed herein May 15, 1920; C. H. Benton; Vasco Mills et al., joining in protest filed herein May 15, 1920, on behalf of persons residing in Luitweiler tract; Santa Gertrudes Water Company, a corporation; G. L. Augustine et al., joining in protest filed herein May 15, 1920, on behalf of stockholders of Colima Tract Water Company; Colima Tract Water Company, a corporation; A. Moore, and Alice E. Moore.

Dated at San Francisco, California, this twenty-eight day of June, 1921.

DECISION No. 9173.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE BONDS OF THE FACE VALUE OF ONE MILLION DOLLARS.

Application No. 3601.

Decided June 28, 1921.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 5376, dated May 2, 1918, as amended, authorized Sierra and San Francisco Power Company to issue and sell, on or before July 1, 1921, at not less than 80 per cent of their face value plus accrued interest, $1,000,000 of its first mortgage bonds to reimburse its treasury on account of capital expenditures made prior to February 28, 1918; and

Whereas, Sierra and San Francisco Power Company, under and pursuant to the terms of the lease, dated December 31, 1919, executed

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under authority granted in Decision No. 7032, dated January 17, 1920, has agreed to deliver said bonds to Pacific Gas and Electric Company as collateral security for the repayment of any and all sums of money advanced or to be advanced by Pacific Gas and Electric Company for paying the cost of additions to and extensions and betterments of the properties of Sierra and San Francisco Power Company; and

Whereas, Sierra and San Francisco Power Company has been unable to sell any of the said $1,000,000 of bonds and in its second supplemental petition in the above entitled matter asks permission to deliver them to Pacific Gas and Electric Company pursuant to the terms and conditions of the aforementioned lease dated December 31, 1919, on account of advances made or to be made by Pacific Gas and Electric Company and the Commission being of the opinion that applicant's request should be granted; now therefore;

It is hereby ordered, that the order in Decision No. 5376, dated May 2, 1918, as amended, be and it is hereby modified so as to permit Sierra and San Francisco Power Company to deliver to Pacific Gas and Electric Company, the $1,000,000 of bonds authorized by said Decision No. 5376, pursuant to the terms and conditions of the lease entered into by and between Pacific Gas and Electric Company and Sierra and San Francisco Power Company on December 31, 1919.

It is hereby further ordered, that the first supplemental order in this proceeding, Decision No. 8208, dated October 6, 1920, be and it is hereby vacated and set aside.

It is hereby further ordered, that the order in Decision No. 5376, dated May 18, 1919, as amended, shall remain in full force and effect except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-eighth day of June, 1921.

DECISION NO. 9174.

IN THE MATTER OF THE APPLICATION OF THE SIERRA AND SAN FRANCISCO POWER COMPANY, A CORPORATION, AND THE PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING THE SIERRA AND SAN FRANCISCO POWER COMPANY TO LEASE TO THE PACIFIC GAS AND ELECTRIC COMPANY, ALL ITS PROPERTIES, FRANCHISES AND PERMITS, USED OR USEFUL IN ITS BUSINESS OF GENERATING, DISTRIBUTING AND SELLING ELECTRIC ENERGY AND IN ITS BUSINESS OF IMPOUNDING, DISTRIBUTING AND SELLING WATER.

Second Supplemental Application No. 5146.

Decided June 28, 1921.

BY THE COMMISSION.

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SECOND SUPPLEMENTAL ORDER.

Pacific Gas and Electric Company, hereinafter referred to as Pacific Company, and Sierra and San Francisco Power Company, hereinafter referred to as Sierra Company, having heretofore with the approval of this Commission (Decision No. 7032, Opinions and Orders of the California Railroad Commission, Volume 17, page 689), executed an indenture of lease under the terms of which Pacific Company now operates certain properties of Sierra Company, and which further provided that after a determination of value Pacific Company should transfer to Sierra Company certain electric lines known as "Patterson Ranch Line" and "Angels-Groveland Line," and Sierra Company should transfer to Pacific Company certain transmission line rights of way from Mission San Jose to Bay Shore substation; said properties being more particularly described in the indenture of lease and in the deeds attached to the second supplemental petition herein and marked Exhibits "C" and "D."

And Sierra Company and Pacific Company having mutually agreed that $192,000 is the reasonable value of said rights of way and that $417,000 is the reasonable value of said electric lines, and having requested this Commission to authorize the transfer of said properties;

And the Commission being of the opinion that the transfer of said properties will promote their economical and efficient operation and will be in the interest of the consumers served by said companies and that this is not a matter requiring a public hearing;

It is hereby ordered, that Sierra and San Francisco Power Company be and it is authorized to sell, and Pacific Gas and Electric Company to buy certain rights of way for electric transmission lines, more particularly described in Exhibit "C," attached to the second supplemental petition in the above entitled matter, and that Pacific Gas and Electric Company be and it is authorized to sell, and Sierra and San Francisco Power Company to buy, certain electric lines, more particularly described in Exhibit "D," attached to the second supplemental petition in the above entitled matter, said sale and purchase of properties to be made pursuant to the terms and conditions of Exhibit "B," attached to the second supplemental petition in the above entitled matter, and the terms of the lease authorized to be executed by Decision No. 7032, dated January 17, 1920.

The authority herein is granted subject to the following conditions and not otherwise:

1. The consideration at which properties are herein authorized to be transferred shall not be urged before this Commission nor any other

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public body as fixing the values of said properties for rate making or for any purpose other than the transfers herein authorized.

2. Within thirty days after the execution thereof Pacific Gas and Electric Company shall file with this Commission certified copies of the instruments of conveyance by which the transfers of property herein authorized are effected.

3. The authority herein granted shall apply only to such transfers of property as may be made on or before November 1, 1921.

Dated at San Francisco, California, this twenty-eighth day of June, 1921.

DECISION No. 9178.

IN THE MATTER OF THE APPLICATION OF THE LOS VERJELS LAND AND WATER COMPANY, A CORPORATION, FOR AUTHORITY AND PERMISSION TO RENEW CERTAIN NOTES OF THE COMPANY, AND ISSUE A CERTAIN AMOUNT OF ITS CAPITAL STOCK AND DISPOSE OF SAME.

Application No. 6919.

Decided June 29, 1921.

Dr. V. T. McGillycuddy, for Applicant.

T. J. Straub, for certain Noteholders.

BY THE COMMISSION.

OPINION.

Los Verjels Land and Water Company asks permission to issue notes in the aggregate amount of $5175 and $19,000 of common stock.

A hearing was had in this application before Examiner Gordon at San Francisco on June 24.

Applicant as of December 31, 1920, reports $187,970 of stock outstanding. Its indebtedness is reported to consist of $36,245 of notes and $29,630.25 of accounts payable. Of the notes outstanding, applicant in this application asks permission to renew $5,175 face value. The notes which applicant asks permission to renew are as follows:

Date	Payee	Rate of interest	Amount
June 30, 1916	John W. Steward	7 per cent	$1,000 00
April 21, 1916	H. D. Cosby	10 per cent	1,800 00
February 2, 1916	H. D. Cosby	10 per cent	500 00
January 29, 1917	H. D. Cosby	8 per cent	1,875 00
Total			$5,175 00

These notes are long past due and unless some are renewed on or before July 1, the holders thereof will bring an action against the company to protect their rights under the statute of limitations.

Applicant also asks permission to issue $19,000 of stock to pay salaries due to certain employees of the company.

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Applicant has for some time past been endeavoring to get its water system established on an income producing basis. In this it has been unsuccessful to date and the Commission will not authorize applicant to issue any more stock until its affairs are in a more satisfactory condition.

ORDER.

Los Verjels Land and Water Company having applied to the Railroad Commission for permission to issue notes and stock, a public hearing having been held and the Commission being of the opinion that applicant should be permitted to issue $5175 of notes referred to in this application and that its request to issue $19,000 of stock should be denied without prejudice;

It is hereby ordered, that Los Verjels Land and Water Company be and it is hereby authorized to issue $5175 face value of notes for the purpose of renewing the notes referred to in the foregoing opinion and in this application, said notes to be issued for a term of not exceeding one year and to bear interest at the rate of not more than 10 per cent per annum.

It is hereby further ordered, that the request of Los Verjels Land and Water Company for permission to issue $19,000 of its common stock be and it is hereby denied without prejudice.

It is hereby further ordered, that applicant may, if necessary, execute a mortgage or mortgages to secure the payment of the notes herein authorized, said mortgage or mortgages to be substantially in the same form as the mortgage approved by the Railroad Commission in Decision No. 1228, dated January 27, 1914; provided—

That the authority herein granted to execute a mortgage or mortgages is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or mortgages as to such other legal requirements to which such mortgage or mortgages may be subject.

The authority herein granted is subject to further conditions as follows:

1. The authority herein granted will not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

2. Los Verjels Land and Water Company shall keep separate and accurate accounts showing the receipt and application of the proceeds from the sale of the notes herein authorized to be issued and shall file a report with the Railroad Commission as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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3. The authority herein granted will apply only to such notes as may be issued and to such mortgage or mortgages as may be executed on or before December 31, 1921.

Dated at San Francisco, California, this twenty-ninth day of June, 1921.

DECISION NO. 9179.

T. H. HATCHARD ET AL.

vs.

SAN GABRIEL VALLEY WATER COMPANY.

Case No. 1533.

Decided June 29, 1921.

WATER UTILITY—BENEFICIAL USE. RESERVE CAPACITY.—In ordering San Gabriel Valley Water Company to furnish water for irrigation in dedicated territory, the Commission decided it was not advisable or necessary to withhold from beneficial use any reserve capacity that may later occur on the system over and above the needs of the present consumers.

Edw. F. Hahn, for Complainants.

Gibson, Dunn and Crutcher, by *H. F. Prince*, for Defendant.

BRUNDIGE, *Commissioner.*

OPINION.

T. H. Hatchard et al., complainants in the above entitled proceeding, own approximately 10 acres of agricultural land embracing the south half of lots 13, 14 and 15 of the San Marino Park tract, Los Angeles County, California.

Complainants allege in effect that the San Gabriel Valley Water Company, defendant herein, owns and operates the water system supplying domestic and irrigation water to other lands in the vicinity of the above mentioned lots; that defendant refuses to serve irrigation water to these lands, thus depriving complainants of certain revenue which could be derived from a rental of the land for agricultural purposes, providing irrigation water could be obtained; that complainants believe that defendant has an adequate quantity of water to supply the above described land for which complainants are able and willing to pay all proper charges for making connections and for water furnished.

Defendant in its answer admits all of the allegations of the complainants except that relating to an adequate supply of water, alleging that the available supply of water is limited to such an extent that an attempt to supply complainants with irrigation water as requested, would seriously hazard the rights of other established consumers.

A hearing in the above entitled proceedings was held at Los Angeles on March 24, 1921.

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The evidence shows that the land upon which complainant desires irrigation water is served by that portion of defendant's system known as the Lamanda Park System. This portion of the system is more or less distinct from the remainder of defendant's distributing system, and serves a district lying higher than the other territory served. Its principal source of supply is defendant's well No. 10, located behind the so-called Raymond Hill dike, but may also receive water by pumping from the main system, to which it is connected. The area behind the dike has for years been well known as a water-bearing district, but due to subnormal rainfall for the past few seasons, the underground water plane has gradually lowered. It was shown that the water level in well No. 10 has dropped some twelve feet since 1913. This low level, together with an obstruction in the well which prevented the lowering of the pumping equipment, caused a water shortage during the irrigation season of 1920. As these conditions still exist, defendant contends that the irrigation of the additional area requested by complainants would result in a hardship to its other consumers.

However, I am not convinced that the lowering of the water level due to the abnormal climatic conditions during the past few years is positive proof that the underground water supply back of the Raymond Hill dike is becoming exhausted. I do not feel that it is advisable or necessary at this time to withhold from beneficial use any reserve capacity that may later occur on this system over and above the needs of the present consumers.

As there is a possibility of developing a larger water supply from the present well or from a new well in the immediate vicinity, I can see no justification at the present time in refusing the service of water to territory now within the dedicated area of the defendant.

I submit herewith the following form of order:

ORDER.

T. H. Hatchard et al. having filed formal complaint with the Railroad Commission against San Gabriel Valley Water Company, as outlined above, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact, that the complainants herein are entitled to the service of water for irrigation purposes by San Gabriel Valley Water Company.

And basing its order on the foregoing finding of fact and the other statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that San Gabriel Valley Water Company be and it is hereby directed to furnish service of water for the purposes of irrigation to said complainants.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of June, 1921.

DECISION No. 9180.

IN THE MATTER OF THE INVESTIGATION INTO ALL THE RATES, CHARGES, RULES AND REGULATIONS OF THE WESTERN UNION TELEGRAPH COMPANY.

Case No. 1355.

Decided June 29, 1921.

TELEGRAPH RATES, RULES AND REGULATIONS—REASONABLENESS OF.—After an investigation on its own motion, the Commission found the rates, charges, rules and regulations of the Western Union Telegraph Company for service rendered entirely within the state to be reasonable and just.

Beverly L. Hodghead, for The Western Union Telegraph Company.

MARTIN, *Commissioner.*

OPINION.

The Western Union Telegraph Company, having been under the exclusive jurisdiction and control, both as to rates and service and all other phases of operation, of the Postmaster General of the United States, acting for and on behalf of the President, from August 1, 1918, to August 1, 1919, and it having during the time of such control increased the rates theretofore in effect for service rendered by it between points within the State of California, under the direction of the Postmaster General; and the federal enactment authorizing the release of telegraph and telephone systems from federal control at midnight, July 31, 1919, having provided for the continuance of all of the rates established during such control for a period not to exceed four months from the effective date of the act unless sooner modified or changed by the public authorities having jurisdiction thereof, the Railroad Commission on August 1, 1919, issued its General Order No. 56 continuing in effect the rates which were established during federal control until changed by the Commission in a proceeding at the time instituted on its own initiative to determine the reasonableness thereof. It is this proceeding, known as Case No. 1355, that is now before the Commission for determination.

Public hearings were held in San Francisco on September 16, 1919, and October 18, 1920, and the matter submitted on the latter date, permission to submit additional evidence being allowed. This additional evidence relating to investment and operation has been submitted and the case is now ready for decision.

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The Western Union Telegraph Company is engaged in a general commercial telegraph business throughout the United States and the increased rates which were made effective in California during federal control were those which were made uniformly effective throughout the United States.

The business of The Western Union Telegraph Company within California is both interstate and intrastate in character. All of its facilities for conducting its business, its plant and property, and its working forces, are subject to both, but only a portion of its revenues and expenses arise directly from its intrastate business. The amount of its investment in physical plant and property devoted to intrastate as distinguished from interstate service, and the amount of revenues and expenses arising therefrom and which it is necessary to consider in a determination of what constitutes reasonable rates in this case, can be determined only by apportionment to interstate and intrastate service.

At the hearing of October 18, the company filed various exhibits which include a statement of its investment in plant within California, and statements of its revenues and operating expenses, both intrastate and interstate, together with a detailed statement of the methods by which its intrastate revenues and operating expenses are apportioned. The investment figures presented are based upon its appraisal of the reproduction cost new, of its entire physical property within the state, as of June 30, 1919. These figures show only the total appraisal amounts of the various items of property without inventory quantities and unit costs, but upon the request of the Commission's engineers the items upon which they are based were submitted in detail for their examination subsequent to the hearing. The revenue and expense statements presented at the hearing were for the year 1919. Since that time similar statements for the year 1920 have been presented.

It is claimed by the company that the rate increase authorized during the period of federal control was granted to offset increases in operating costs which had been incurred but that since the increase was made effective on April 1, 1919, further increases in wages have absorbed the rate increase and urges that it has not profited from the increase in rates. This claim is supported by the evidence.

In comparison with appraisals of other properties made by other utilities and by the engineers of the Commission, as far as those properties are comparable with the physical plant of The Western Union Telegraph Company, the unit costs of some of the major items of plant upon which the company's valuation is based appear to be high. If, as it appears from the company's operating statements, however, the net income from intrastate service for the year 1919 was sufficient to

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show an earning of only 1.63 per cent on its claimed valuation of the property devoted to that service, the difference in valuation which may be disclosed by an independent appraisal would not be sufficient to show that under present rates the company is earning an excessive rate of return. The statements presented for the year 1920 show further that operating expenses, taxes, etc., were approximately $41,000 in excess of revenues from intrastate business. A sufficient check of the company's appraisal has been made by engineers of the Commission to indicate that a complete reappraisal is not necessary under the circumstances.

In certain respects we are not in agreement with methods employed by the company in its apportionment of revenues and expenses to interstate and intrastate service. The conclusions which it has reached, however, are based on studies of actual business handled over a period of thirty days and such modification or alteration of the methods of apportioning revenues and expenses as may reasonably be made would not seem to result in a finding that the present rates are excessive. We are accordingly of the opinion and it is our finding that the present rates of The Western Union Telegraph Company within this state are not unreasonable and that they should be continued in effect.

ORDER.

The Railroad Commission having ordered that an investigation be instituted on its own motion into the reasonableness of all of the rates and charges and rules and regulations of The Western Union Telegraph Company for telegraph service rendered entirely within the State of California, public hearings having been held, the matter having been submitted and being now ready for decision:

It is hereby found as a fact, that the rates and charges and rules and regulations of The Western Union Telegraph Company for telegraph service rendered entirely within the State of California are just and reasonable. Basing its conclusions on this finding of fact and on the other findings of fact referred to in the opinion preceding this order;

It is hereby ordered, that the complaint herein be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of June, 1921.

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DECISION NO. 9181.

SPRING VALLEY WATER COMPANY

vs.

THE WESTERN PACIFIC RAILROAD COMPANY.

Case No. 1529.

Decided June 29, 1921.

McCutchen, Willard, Mannon and Greene, by *J. M. Mannon*, for Complainant.
James S. Moore, Jr., for Defendant.

MARTIN, *Commissioner*.

OPINION.

In this proceeding Spring Valley Water Company, a corporation, alleges that Western Pacific Railroad Company has been negligently maintaining its railroad and right of way where it is crossed at Sunol, county of Alameda, by the county road between Niles and Pleasanton in a condition unsafe and dangerous to persons using this road and to animals and vehicles on the road.

It is further alleged that no adequate warning device is installed at this crossing, that no cattle guards are installed and that cars are spotted between defendant's station at Sunol and the crossing, thus cutting off the view from the road with trains approaching on the track.

In its answer defendant denied the allegations and asked for dismissal of the complaint.

A public hearing was held at Sunol on June 13, 1921, at which both complainant and defendant appeared.

Testimony was given by eleven witnesses for complainant, all being residents of, or employed in, the vicinity of Sunol.

Summarized, the testimony and opinion of these witnesses were that the warning bell maintained by the defendant at the crossing was inadequate. Several testified that the bell did not always ring and that at times did not ring until the train was within a very few feet of it, so that no warning was given travelers on the highway.

There was also a practical agreement in the testimony of these witnesses that the defendant allowed cars to stand on its sidetrack so that they were frequently across the sidewalk and at times even into the roadway, and that this practice obscured the view of approaching trains.

Mr. Paul Woodward testified that he had been struck by a Western Pacific train at the crossing, but other witnesses were not able to testify that they had either seen or knew of other actual accidents at this location. Several, however, related near accidents, and while I do not care to take any position as to whether this accident, or these near

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accidents, were either a fault of the motorist or the railroad, I believe it is clear that there is some element of danger at this crossing.

Mr. Woodward also testified that 1260 automobiles passed over the crossing between noon and 6.30 p.m. on June 12, 1921, he having counted this number of machines.

Mr. A. W. Ebright, assistant superintendent for complainant at Sunol, while generally holding the views of other witnesses, was the only one to testify with regard to complainant's request that an order be entered to the effect that the railroad should install cattle guards at the north side of the crossing. Mr. Ebright testified that he realized that cattle guards in the station ground were dangerous to the trainmen and that he did not recommend them. Later, the complainant withdrew that portion of this complaint in which it asks that cattle guards be installed.

Mr. C. L. Fike, trainmaster of the Western Pacific, testified that trains in approaching the crossing, which is right near the station, whistle three times—for the station, for the crossing and for the train order board, the last, however, only during certain daylight hours. When asked if the house track could be connected at its west end and taken up east of the station, Mr. Fike stated that the portion suggested to be removed was that used as a team track and if removed the railroad would lose, through competition, practically all of its business at Sunol.

Upon cross-examination Mr. Fike admitted that an automatic flagman giving a visible signal in addition to an audible signal was better than a warning bell alone, and also that the station whistle was given about a mile away and could hardly be considered as a warning of the approach of the train at this crossing. Mr. Fike stated that the railroad traffic was two passenger trains and approximately two freight trains on the average, each way, per day, all of which moved substantially during daylight hours.

Mr. John Coles, signal engineer for defendant, testified that the track circuit controlling the operation of the crossing bell extended 1884 feet east of the crossing and 1576 feet west of the crossing. Mr. Coles stated that in his judgment, in view of the relatively light railroad traffic, the crossing was sufficiently protected and that he had no record of failures in the bell for the past two years.

Upon cross-examination, Mr. Coles admitted that the relay operating the bell was not modern, liable to failure, and that he would recommend that it be changed.

I am convinced from complainant's witnesses and Mr. Cole's statements, in spite of the fact that failures have not been reported, that the electrical installation which operates the bell is not satisfactory. Mr. Coles estimated it would cost $550 to install an automatic flagman in lieu of the crossing bell.

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Mr. H. G. Weeks, one of the Commission's assistant engineers, testified that this crossing had been inspected, during the course of the Commission's general grade crossing investigation, on August 17, 1916, and that in Grade Crossing Report No. 64, this crossing, referred to as Crossing No. 14, it was recommended that the Western Pacific install an automatic flagman in place of the crossing bell and that this recommendation had been sent to the Western Pacific. He also stated that in his judgment this recommendation was still good, and upon question, thought the expense of changing the crossing bell to an automatic flagman was justified, drawing attention to the fact that there was an increasing traffic on this road; that automobiles collected around the ice cream parlor near the crossing, and these, with cars spotted on the house track between the station and the crossing, obscured the view and confused the motorists on the highway.

Attorney for defendant asked several witnesses that if cars were not spotted nearer the crossing than opposite the east passing track switch, if, in their opinion, a satisfactory view of the eastbound trains could be obtained. There was apparently no definite agreement between them. This question was also asked Mr. Weeks, but he reserved his reply until he had made an examination on the ground. He now reports that he believes this would be satisfactory, particularly since consideration should be given to the fact that some of this track room between the station and the crossing must be used as a team track if the Western Pacific is to successfully continue doing a carload business at Sunol.

The Western Pacific offered to promulgate an order to trainmen to the effect that no cars should be spotted between the east passing tracks and the crossing, and in view of our engineer's opinion I believe that this will give sufficient view and at the same time allow the railroad to transact its carload business satisfactorily. I am also convinced that the crossing bell should be changed to an automatic flagman.

Complainant having agreed to withdraw that portion of its complaint asking for installation of cattle guards north of the crossing, this phase of the complaint needs no discussion.

I recommmend the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been submitted and being now ready for decision;

It is hereby ordered, that Western Pacific Railroad Company be and the same is hereby ordered to install, within thirty (30) days, an automatic flagman of type approved by the Commission in lieu of its existing crossing bell at its crossing, at Sunol, on the county road between Niles and Pleasanton; and

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It is hereby further ordered, that the Western Pacific Railroad Company be and the same is hereby ordered not to allow cars to stand on its house track at Sunol station east of a point opposite the east switch in its passing track in Sunol.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of June, 1921.

DECISION No. 9185.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO VALLEY WEST SIDE CANAL COMPANY, A CORPORATION, AND ALGER FAST, RECEIVER OF SAID SACRAMENTO VALLEY WEST SIDE CANAL COMPANY, SACRAMENTO VALLEY COMMITTEE, JACINTO IRRIGATION DISTRICT AND GLENN-COLUSA IRRIGATION DISTRICT, FOR AN ORDER AUTHORIZING THE SALE OF THE REMAINING PORTION OF A PUBLIC UTILITY WATER SYSTEM, FREE AND CLEAR OF PUBLIC UTILITY OBLIGATION.

Application No. 6789.

Decided June 30, 1921.

WATER UTILITY—TRANSFER TO IRRIGATION DISTRICT.—The Commission authorized the transfer of practically the entire canal system of the Sacramento Valley West Side Canal Company to the Glenn-Colusa Irrigation District, free and clear of public utility obligation. Transfer of minor parts of the system, under like conditions, to the Jacinto Irrigation District, was also approved.

PUBLIC SERVICE—DISCONTINUANCE OF—REASONABLE CONDITIONS.—In the discontinuance of public service reasonable conditions necessary to protect prior users. In this case application granted with conditions safeguarding rights of all former users.

Morrison, Dunne and Brobeck, by *Edward Hofeld*, and *Devlin and Devlin*, for Alger Fast, Receiver, and Sacramento Valley Committee, Merle B. Moon, Chairman.

A. C. Huston, for Jacinto Irrigation District.

Hankins and Hankins, for Glenn-Colusa Irrigation District.

Claude F. Purkitt, for Edna L. Knight et al.

MARTIN, *Commissioner*.

OPINION.

In this proceeding the Commission is, in effect, asked to authorize two things, viz, the transfer by the Sacramento Valley West Side Canal Company, a corporation, Alger Fast, receiver of said company; the Sacramento Valley Committee, representing certain bondholders of the Sacramento Valley West Side Canal Company, and the Jacinto Irrigation District, to the Glenn-Colusa Irrigation District of a certain canal and irrigation system formerly operated by the Sacramento Valley West Side Canal Company in Glenn and Colusa counties, California, and now being operated by the Glenn-Colusa Irrigation District under

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a lease authorized by the Commission on April 3, 1920, Decision No. 7332, on Application No. 5454, and the discontinuance and withdrawal from public service by said applicants of the property heretofore operated by said applicants, or any of them, in the distribution and sale of water as a public utility.

Written protests have been filed herein by certain persons, former water users under the system proposed to be conveyed, but who have either declined to have their lands included in the Glenn-Colusa Irrigation District, or who, for other reasons, are not included therein. These protestants assert their rights in the past to receive water from the system in question, and object to its being transferred, under the sanction of this Commission, free and clear and divested of any public utility features.

It appears from the evidence herein that the Glenn-Colusa Irrigation District was proposed and organized for the purpose of taking over the entire distribution system and of supplying water to all of the lands theretofore supplied thereunder by the Sacramento Valley West Side Canal Company. In so far as it was reasonably possible, this has apparently been done. The number of protestants and the total acreage owned by them is a very small percentage of the total number of land owners and acreage included within the Glenn-Colusa Irrigation District. It further appears that protestants have been requested by the officers of the district to take proper steps to be included within the district, and that, notwithstanding their refusal to do so in the past, the opportunity, in so far as it can be presented, remains open to them at the present time. The evidence also shows that some of the protestants have an alternative supply of water from wells upon their own lands. It thus appears that if the application for discontinuance of service as a public utility by applicants be granted, the protestants herein will not be deprived of their only available source of water. On the other hand, the conveyance of the irrigation system in question to the Glenn-Colusa Irrigation District will terminate the receivership of the utility now owning the system and at the same time enable the land owners served by the system to manage and control their own water supply.

The proposed transfer contemplates that practically the entire system of canals formerly operated by the Sacramento Valley West Side Canal Company shall be conveyed to the Glenn-Colusa Irrigation District. There are, however, minor portions of this system which were not included in the description of properties to be transferred to the Glenn-Colusa Irrigation District and which it is proposed shall be transferred to Jacinto Irrigation District, the Directors of Jacinto Irrigation District, the Directors of Glenn-Colusa Irrigation District, and Merle B.

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Moon. The respective properties proposed to be conveyed to these transferees are fully set forth and described in the application.

The Commission concludes from the evidence herein presented that it is in the public interest that the proposed transfer of the irrigation system in question to the Glenn-Colusa Irrigation District and other above-mentioned transferees and the discontinuance and withdrawal of this system from public service should be approved. Reasonable conditions, however, should be imposed upon the discontinuance of public service to permit all prior users under the system to adjust themselves to the changed condition and secure their water supply, either under the new district or from some alternative source.

ORDER.

Application having been filed herein for the approval by this Commission of the proposed transfer by the Sacramento Valley West Side Canal Company, a corporation, and Alger Fast, the receiver thereof, and other parties in interest, of certain properties comprising the public utility irrigation system described in said application, to the Glenn-Colusa Irrigation District and others, free and clear of public utility obligations; protests thereto having been filed by certain former users under said system, a public hearing having been held, testimony taken and other evidence received and the matter submitted;

It is hereby ordered:

1. Authorization is hereby granted for the sales and transfers by the Sacramento Valley West Side Canal Company, a corporation, and Alger Fast, receiver thereof, and other persons beneficially interested, to the Glenn-Colusa Irrigation District and other transferees, of the respective properties proposed to be transferred as set forth and described in said application, and the forms of conveyances attached to said application are hereby approved.

2. Approval and authorization of this Commission is hereby granted for the discontinuance and termination of service as a public utility by the Sacramento Valley West Side Canal Company, a corporation, and Alger Fast, receiver thereof, in the sale and distribution of water for compensation to the public by means of the properties, or any portion thereof, the sales and transfers of which are herein authorized, upon the filing with this Commission by said Sacramento Valley West Side Canal Company and Alger Fast, receiver thereof, of a certified statement showing that said sales and transfers authorized herein have been consummated.

3. Approval and authorization by this Commission is hereby granted for the withdrawal from public service by the Glenn-Colusa Irrigation District as to all properties herein authorized to be transferred to said

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district, and as to all territory heretofore served by means thereof, subject, however, to the following conditions:

(*a*) Any land owner, user or consumer heretofore supplied by means of such properties, or any portion thereof, shall be entitled to receive water therefrom at the same rates and upon the same terms of service as heretofore until January 1, 1922.

(*b*) If at any time prior to January 1, 1922, any land owner, user or consumer formerly supplied by that portion of the public utility system herein authorized to be transferred to the Glenn-Colusa Irrigation District shall have made application to said Glenn-Colusa Irrigation District to have his land included therein, and such application is denied, this order, in so far as it authorizes the withdrawal from public service by said district of said property herein authorized to be transferred to the Glenn-Colusa Irrigation District, shall be null and void.

4. Approval and authorization is hereby granted by this Commission for the withdrawal from public service by Jacinto Irrigation District, the Directors of Jacinto Irrigation District, the Directors of Glenn-Colusa Irrigation District, and Merle B. Moon, as to all property herein authorized to be transferred to said Jacinto Irrigation District, the Directors of Jacinto Irrigation District, the Directors of Glenn-Colusa Irrigation District, and Merle B. Moon, and as to all territory heretofore served by said properties.

The effective date of this order, as to authorization of the proposed transfer of properties, is hereby fixed as of June 30, 1921. As to the authorization herein granted for the discontinuance of service as a public utility, or withdrawal from public service, as to any part of the territory herein referred to, the effective date is hereby designated as July 15, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of June, 1921.

DECISION No. 9186.

IN THE MATTER OF THE APPLICATION OF E. L. McCONNELL'S VALLEY AND COAST TRUCK LINE TO INCREASE FREIGHT RATES—SAN LUIS OBISPO—SAN MIGUEL AND INTERMEDIATE POINTS.

Application No. 6867.

Decided June 30, 1921.

S. V. Wright, for Applicant.

BY THE COMMISSION.

OPINION.

A public hearing upon the above application to increase freight truck rates between San Miguel, Paso Robles, San Luis Obispo, Santa Maria,

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Orcutt and intermediate points, was held by Examiner Westover at San Luis Obispo.

Applicant placed in evidence detailed statement of receipts and disbursements for the year 1920, including in gross receipts an item of gas discounts of $83.87, and rent received for garage space, $250. The statement, summarized, including 20 per cent depreciation, as claimed, applied to the cost of equipment, is as follows:

Operating Revenue and Expenses, Year 1920.

Receipts		$17,307 27
Operating expenses, including manager's salary	$14,232 81	
Depreciation, 20 per cent. on equipment costing $15,390	3,080 00	17,312 81
Deficit for year 1920		$5 54

It appears from the testimony, however, that there has been a reduction in the cost of tires used by applicant amounting to about 12 per cent and in the cost of gasoline and oil amounting to about 7 per cent. If these reduced prices had been in effect during 1920 it would have reduced operating expenses in the amount of $262.29, converting the deficit of $5.54 into an operating profit of $256.75, available for return upon a rate base of $15,890, which includes $500 for working capital.

Applicant testified that his proposed new tariff, he estimated, would increase his revenue about 10 per cent through increase in the first three class rates, but that no increase is provided for fourth class freight. About seventy-five per cent of applicant's traffic moves under third class rates. Examiner Westover required at the hearing that applicant prepare and submit a traffic check of the last ten business days in May, 1921, roughly estimated by applicant to be a period of average business. This shows total revenue for the ten days of $803.75, and that the proposed new rates, applied to the same traffic, would have increased the revenue $78.90, an increase of about 9½ per cent. The increased rates requested appear to be justified.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and ready for decision;

It is hereby ordered, that E. L. McConnell, doing business under the name of E. L. McConnell's Valley and Coast Truck Line, be and he hereby is authorized to file and make effective, and thereafter charge and collect the rates shown under his proposed express and freight tariff No. 4, cancelling his C. R. C. No. 3.

Dated at San Francisco, California, this thirtieth day of June, 1921.

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DECISION NO. 9189.

IN THE MATTER OF THE APPLICATION OF STOCKTON COMMERCIAL WAREHOUSE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING ISSUE OF STOCK.

Application No. 6925.

Decided June 30, 1921.

C. M. Gill, for Applicant.

MARTIN, *Commissioner*.

OPINION.

Stockton Commercial Warehouse Company asks permission to issue $200,000 of its common capital stock.

The company was organized during May, 1921, with an authorized stock issue of $250,000, divided into 2500 shares of the par value of $100 each. It proposes to conduct a general warehouse and forwarding business in the city of Stockton, California.

Applicant requests authority to issue $10,000 of its stock to Stanbrough and Burkett, in consideration for the assignment to applicant of options to purchase certain real estate and to cover promotion expenses. It is reported that Stanbrough and Burkett have obtained options to purchase, at a cost of $18,800, the following real estate, situated in Stockton and adjoining the tracks of Southern Pacific Company and The Western Pacific Railroad Company:

Lots two (2), four (4), six (6), thirteen (13) and fourteen (14) and the south twenty-five (25) feet of lots one (1), three (3) and five (5) in block two hundred twelve (212), east of Center street.

Applicant proposes to sell the remaining $190,000 of stock at par, and to pay not exceeding 15 per cent of the proceeds as brokerage commission for its sale. Of the remaining proceeds, it intends to use $18,800 to purchase the above described real estate, about $140,000 to erect a three-story reinforced concrete warehouse with full basement and with an available floor space of 100,000 square feet, and the balance for working capital. C. P. Stanbrough, applicant's vice president, testified that he believed real necessity exists for the establishment of an additional warehouse business in Stockton and that no difficulty would be encountered in disposing of the entire issue of stock at par.

In my opinion there has been no satisfactory showing made justifying the issue of $10,000 of stock to pay promotion expenses and as consideration for the assignment of options to applicant. The order herein will authorize the issue of $5,000 of stock for this purpose. The order will further authorize applicant to expend not exceeding 15 per cent of the proceeds from the sale of stock to pay commissions for selling the stock and to pay organization expenses, including cost of incorporation

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and attorney's fees. It is expected that applicant's stock will be sold at the least possible expense and that none of applicant's officers will make any profit through the sale of its securities. The Commission expects the stock to be sold at par for cash. In the event that a subscriber is unable to make full cash payment, the balance due may be noted on the subscription blank. Under no circumstances shall applicant accept notes in payment for stock sold, nor shall any stock be issued until fully paid for.

Any prospectus that may be issued, as well as any stock subscription, agreement or other literature distributed by applicant shall recite that the order of the Commission authorizing the issue of stock is permissive only and does not constitute a recommendation or endorsement of the Railroad Commission of said stock.

I herewith submit the following form of order:

ORDER.

Stockton Commercial Warehouse Company, having applied to the Railroad Commission for permission to issue stock, a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Stockton Commercial Warehouse Company be and it is hereby authorized to issue $195,000 of its common capital stock.

The authority herein granted is subject to the following conditions:

(1) $5,000 of the stock herein authorized may be issued to Stanbrough and Burkett for the purposes recited in the preceding opinion.

(2) The remaining $190,000 of stock shall be sold at par for cash, and the proceeds used as follows:

(*a*) Not exceeding 15 per cent of the proceeds to pay brokerage commissions and organization expenses, including attorney's fees.

(*b*) Not exceeding $18,800 to pay for the real estate described in the foregoing opinion and in this application.

(*c*) Approximately $140,000 to pay the cost of constructing the warehouse building referred to in this application.

(*d*) The balance of the proceeds may be used for working capital.

(3) Applicant shall file with the Commission the name and postoffice address of each stock subscriber, with the amount of stock subscribed and payments made by each subscriber.

(4) Applicant shall file with the Commission a copy of its prospectus, if any is printed and distributed, copy of its stock subscription agreement, and a copy of each and every agreement under the terms of which

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any individual or individuals are employed to act as agents or salesmen for applicant, to sell the stock herein authorized.

(5) On each stock subscription agreement and on any prospectus distributed by applicant, shall appear this language:

> While the Railroad Commission has authorized the issue and sale of this stock, its order is permissive only and does not constitute a recommendation or endorsement of the stock.

(6) Stockton Commercial Warehouse Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(7) The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of June, 1921.

DECISION No. 9190.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING THE ISSUANCE OF BONDS, THE EXECUTION OF A MORTGAGE OR DEED OF TRUST TO SECURE THE SAME, AND THE EXECUTION AND DELIVERY OF TEMPORARY CERTIFICATES TO BE THEREAFTER EXCHANGED FOR SAID BONDS.

Application No. 6574.

Decided June 30, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 8731, dated March 10, 1921, authorized The California-Oregon Power Company to issue and sell, at not less than 95 per cent of face value, plus accrued interest, $1,849,000 of interim certificates and to issue in exchange for such interim certificates, $1,849,000 of first and refunding mortgage sinking fund 7½ per cent gold bonds, subject among others, to the condition that:

> None of the $1,849,000 of bonds shall be issued and delivered until the Commission by supplemental order has authorized the execution of a mortgage or trust deed securing the payment of said bonds. Pending the delivery of said bonds, all moneys received from the sale of the interim certificates or from the sale of bonds, shall be deposited with a trustee or trustees under a proper escrow agreement, and

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after being released, expended only for such purposes as the Commission may authorize in a supplemental order or orders.

And

Whereas, a revised copy of the proposed mortgage or deed of trust securing the payment of an authorized issue of $10,000,000 of first and refunding mortgage sinking fund gold bonds was filed with the Railroad Commission by The California-Oregon Power Company on June 28, 1921; and

Whereas, The California-Oregon Power Company, in its supplemental application, filed in the above entitled matter on June 27, 1921, asks the Railroad Commission for an order authorizing it to execute its proposed mortgage or deed of trust and to use the proceeds from the sale of the bonds (or interim certificates) to pay floating indebtedness, construction expenditures and reorganization expenses, referred to in Decision No. 8731, and in the supplemental application herein; and

Whereas, it appears to the Railroad Commission that applicant should be permitted to use $824,900 of the proceeds to pay the floating indebtedness assumed by applicant in connection with the acquisition of the business, property and assets of California-Oregon Power Company and that the remainder of the proceeds should be deposited in a special fund and expended only as authorized by the Railroad Commission in supplemental order or orders upon the filing by applicant of detailed statements of its construction expenditures and reorganization expenses;

And the Commission having considered the terms and conditions of the proposed mortgage or deed of trust and being of the opinion that applicant should be permitted to execute a mortgage or deed of trust substantially in the same form as that heretofore filed with the Commission and referred to herein, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income; now, therefore;

It is hereby ordered, that The California-Oregon Power Company be and it is hereby authorized to execute a mortgage or deed of trust substantially in the same form as the revised copy filed with the Commission in this proceeding on June 28, 1921;

Provided, that the authority herein granted to execute a mortgage or deed of trust is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

It is hereby further ordered, that The California-Oregon Power Company be and it is hereby authorized to use $824,900 of the proceeds

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obtained from the sale of bonds (or interim certificates) authorized to be issued by Decision No. 8731, dated March 10, 1921, to pay the floating indebtedness referred to in said Decision No. 8731, and in the supplemental application herein.

It is hereby further ordered, that the order in Decision No. 8731, dated March 10, 1921, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this thirtieth day of June, 1921.

DECISION NO. 9192.

IN THE MATTER OF THE APPLICATION OF RICE TRANSPORTATION COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF TEN THOUSAND FIVE HUNDRED THREE SHARES OF STOCK.

Application No. 6949.

Decided June 30, 1921.

George M. Pierson, for Applicant.

LOVELAND, *Commissioner.*

OPINION.

Rice Transportation Company asks permission to issue 10,503 shares ($10,503) of its common stock to acquire properties and to pay part of the indebtedness which it asks permission to assume.

Rice Transportation Company was organized on or about April 7, 1921. The company has an authorized stock issue of $100,000 divided into $50,000 of common (50,000 shares) and $50,000 of 10 per cent cumulative preferred (50,000 shares). The preferred stock, under applicant's present articles of incorporation, has a preference as to earnings only. If the company hereafter concludes to ask permission to issue any of the preferred stock, consideration should be given to the amendment of its articles of incorporation, so that the preferred stock will have a preference over the common stock, both as to earnings and assets. Consideration should also be given to the reduction of the rate of dividend. This Commission does not pass upon the terms and provisions of a company's articles of incorporation until such company asks permission to issue stock. Under the Public Utilities Act, the Commission may attach to the exercise of its permission to issue stock such a condition or conditions as it may deem reasonable and necessary.

Pursuant to the authority granted in Decision No. 8135, dated September 23, 1920, J. R. Cleaveland acquired the operative rights and properties formerly owned by the Rice Auto Delivery. He now proposes to transfer these operative rights and properties, together with

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other properties acquired since September 23, 1920, to the Rice Transportation Company. The properties which he intends to transfer consist of one 2½-ton Transport truck, two 2-ton Autocar trucks, four Ford trucks with attachment, office supplies and miscellaneous equipment. Applicant reports the value of the automobile equipment and other properties which it intends to acquire from G. R. Cleaveland at $12,641.80. There is now due on the auto trucks $5,641.80, leaving a net investment of $7,000. Applicant asks permission to issue to G. R. Cleveland in payment for the properties $7,000 of its common stock and to assume the payment of the $5,641.80 due on the automobile equipment.

The transfer of the operative rights is authorized by an order in Application No. 6759.

Applicant also asks permission to issue and sell for par three (3) shares of its stock to its directors and 3500 shares ($3,500) to Mary K. Crane. Approximately one-half of the proceeds would be used by applicant to pay indebtedness which it asks permission to assume and the remainder to acquire an additional truck.

The record shows that applicant is in need of additional equipment to properly handle its business.

I herewith submit the following form of order:

ORDER.

Rice Transportation Company having asked permission to issue 10,503 shares ($10,503 par value) of its common stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor which applicant intends to acquire through the issue of such stock is reasonably required by applicant and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Rice Transportation Company be and it is hereby authorized to issue 10,503 shares ($10,503 par value) of its common stock and to assume the payment of not more than $5,641.80 due on automobile equipment which it is herein authorized to acquire through the issue of stock.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized, 7000 shares may be issued by applicant to G. R. Cleaveland in part payment for the automobile equipment and properties described in Exhibit "E" filed in this application.

2. Three (3) shares of the stock herein authorized may be sold by applicant at not less than par to its directors and the proceeds used for working capital.

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3. Three thousand five hundred dollars of the stock herein authorized may be sold by applicant for not less than par and approximately one-half of the proceeds used to pay part of the indebtedness which applicant is herein authorized to assume, and the remainder to acquire an additional automobile truck.

4. Rice Transportation Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

5. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before October 1, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of June, 1921.

DECISION NO. 9195.

A. HANCOCK, C. S. FILLMORE, E. E. RANKIN ET AL.

vs.

EAST SIDE CANAL COMPANY, KERN ISLAND IRRIGATING CANAL COMPANY AND KERN COUNTY CANAL AND WATER COMPANY.

Case No. 1250.

Decided June 30, 1921.

WATER UTILITY—PREFERENTIAL CONTRACTUAL RIGHTS—DEDICATION TO PUBLIC USE.—It is held to be fundamental in public service that utilities can not discriminate between consumers in giving service. Contracts providing for preferential rights subject to jurisdiction of the Commission.

PRESCRIPTIVE RIGHTS.—It is held that users who through a long period of years have received a certain supply of water are entitled to a continuance of use of that water.

East Side Canal Company ordered to put into effect rotation schedule for deliveries of water and to put its system in order to handle the maximum amount of water to which it is entitled.

Kern Island Irrigating Canal Company directed to deliver to East Side Canal Company for resale a minimum of 25,500 acre feet of water a year, with provision for proration as to water available.

James F. Farraher, for Complainants.

Edward J. McCutchen, *Allan P. Matthew* and *W. B. Bennisley*, for Defendants.

E. F. Brittain, for certain water users of Kern Island Irrigating Canal Company, Intervenors.

O. G. Dupy, for Edward T. Houghton and the estate of R. E. Houghton.

BY THE COMMISSION.

OPINION ON REHEARING.

This is a proceeding on application for rehearing in which defendants East Side Canal Company and Kern Island Irrigating Canal Company

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ask this Commission to grant a rehearing and set aside and annul its order heretofore rendered in this proceeding, Decision No. 6383, dated June 3, 1919.

The scope of this proceeding is such that it involves the right of the users of water under some sixteen canal companies in Kern County, delivering water for the irrigation of 150,000 to 175,000 acres of land, to receive service, and whether or not the consumers of the East Side Canal Company shall receive additional water over and above that which they have heretofore received under a contract between the East Side Canal Company and the Kern Island Irrigating Canal Company. Therefore, for the sake of clarity and definiteness, it appears advisable that the entire situation be reviewed herein.

The complainants in this proceeding allege in effect that defendant East Side Canal Company has for many years owned and operated what is known as the East Side Canal, about twenty miles long, diverting water from Kern River near Bakersfield, with a right to divert a continuous flow of from 100 to 150 cubic feet per second. It is further alleged that this water is appurtenant to and necessary for the irrigation of 6351 acres of land; that East Side Canal Company has neglected and refused to clean out the canal so as to enable it to carry its full quota of water to its consumers, to keep water in the canal to its capacity, and to supply complainants with the water to which their lands are entitled, except at uncertain intervals and in insufficient quantities; that defendants Kern Island Irrigating Canal Company and Kern County Canal and Water Company are corporations claiming to have an interest in or control over East Side Canal Company, and that each of them joins in and authorizes the acts complained of. Complainants ask that this Commission issue an order directing defendant East Side Canal Company to place its canal in proper carrying condition to divert water into the canal to its full carrying capacity, and deliver to complainants continuously throughout the irrigation season the water to which they are entitled, and for such other relief as may be warranted.

Defendants' answer denies that East Side Canal Company has any rights to the waters of Kern River except by virtue of two contracts with Kern Island Irrigating Canal Company, and alleges further that all water to which it is entitled under the contracts has been delivered to East Side Canal Company for use on approximately 6311 acres; that East Side Canal Company has kept its canal in good condition, and has distributed to its consumers all the water to which they are entitled; that Kern County Canal and Water Company is the owner of all the capital stock of the East Side Canal Company except qualifying shares; that Kern Island Irrigating Canal Company has no interest in or control of the East Side Canal Company, and that none of the defendants have

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violated any rights of complainants or have neglected or refused to discharge any of their obligations.

Public hearings were held in this proceeding, the matter was submitted, and the Commission rendered its decision, which is No. 6383, directing East Side Canal Company to file rules and regulations providing for the establishment of a rotation schedule of deliveries of water; that Kern Island Irrigating Canal Company prorate its water supply among each of its consumers, including East Side Canal Company, in proportion to the total amount of water available and the needs of all individual consumers, and that Kern Island Irrigating Canal Company furnish a copy of the detailed computation by which it arrives at its conclusion as to the prorata quantity of water to be delivered to said East Side Canal Company.

Certain other minor clauses were contained in the order relating to time of filing, etc. Subsequently, defendants East Side Canal Company and Kern Island Irrigating Canal Company filed a petition asking that a rehearing be granted them on the ground that the Commission erred in its findings:

That no jurisdictional question is raised by either party.

That the defendant East Side Canal Company is a consumer of defendant Kern Island Irrigating Canal Company, and entitled to receive water from that company in the same manner as consumers served by said Kern Island Irrigating Canal Company.

That the Commission erred in failing to find and conclude that the right of defendant East Side Canal Company to receive water from the defendant Kern Island Irrigating Canal Company is derived from certain contracts entered into between said companies.

That the Commission erred in failing to find and conclude that the rights of complainants to receive service from the East Side Canal Company are limited to the amount of water secured to them by virtue of their several contracts with said company.

That the Commission erred in ordering that Kern Island Irrigating Canal Company prorate its water supply between each of its consumers, including East Side Canal Company, without regard to and excepting from said order the superior rights of holders of water rights against the said defendant Kern Island Irrigating Canal Company by virtue of certain contracts, viz, the so-called swamp land contract, the water settlement contract, Bloomfield Land Association contract, the Solomon Jewett contract, the Balfour-Guthrie Investment Company contract, and the Castro contract. All of these contracts are of record herein and are referred to by the Commission in its Decision No. 6383.

That the Commission erred in not finding that certain lands furnished with water by the Kern Island Irrigating Canal Company prior to the furnishing of water service by defendant East Side Canal Company

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to any of the lands of complainants have prior and superior rights to those of complainants, and that the Commission has not regularly pursued its authority in making its findings and conclusions contained in said order.

Subsequent to the filing of this petition for rehearing, the Commission rendered an order granting an extension of the effective date of Decision No. 6383 during the pendency of the application for rehearing. Arguments on the question of rehearing were heard, and an order was made granting a rehearing. Public hearings were later held in Bakersfield and San Francisco, briefs were filed and the matter is now ready for decision.

The principal issues involved in this proceeding may well be subdivided into two general classifications. The one is jurisdictional and involves the power of this Commission to regulate the distribution of water by these companies, regardless of certain outstanding contracts which purport to give to certain consumers preferential rights and limit the supply of water delivered to others. The second is the question of whether or not water will be taken from one group of consumers and given to another, it being claimed by the group desiring water that there is delivered to the other group of consumers more water than is necessary for the irrigation of their lands. The record shows that the entire water supply available to defendant companies is now being utilized, and that therefore, if the complainants herein are given an additional supply of water it would necessarily follow that other consumers would receive a lesser supply than heretofore.

The district involved in this proceeding receives its water supply for irrigation from sixteen canal companies, all of which are subsidiary companies of the Kern County Canal and Water Company, which, in turn, is subsidiary to the Kern County Land Company. These canal companies either divert the water utilized by them directly from the Kern River or receive their supply from another of the group. The total area irrigated is from 150,000 to 175,000 acres. These companies are the Kern Island Irrigating Canal Company, East Side Canal Company, Anderson Canal Company, Buena Vista Canal Company, Central Canal Company (Calloway), Gates Canal Company, Goose Lake Canal Company, Farmers Canal Company, James Canal Company, James & Dixon Canal Company, Joyce Canal Company, Kern River Canal and Irrigating Company (Beardsley), Lerde Canal Company, Pioneer Canal Company, Plunkett Canal Company and Stine Canal Company.

The source of the water supply of all of these companies is the Kern River, and the right to divert water therefrom and the amount of the diversion was practically settled by a contract entered into July 28, 1888, between Henry Miller et al., parties of the first part, and James B. Haggin et al., parties of the second part, which contract is commonly

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known as the "water settlement contract." The parties to this agreement claimed to collectively own all of the water of the Kern River, and the purpose of entering into the agreement was to settle and terminate litigation relative to their respective rights to the waters of Kern River, Buena Vista Slough and other sloughs and channels. This water settlement contract was later made a part of what is commonly known as the Shaw decree, which decree was the result of the aforementioned litigation and was rendered by Judge Lucien Shaw of the Superior Court of Kern County. The decree and the water settlement contract provides that:

> Kern Island Irrigating Canal Company is entitled to the first right to divert 300 cubic feet per second of water, and as to the excess of its rights over 300 cubic feet, its rights are superior to the rights of other interested parties except Kern County Canal and Water Company.

It is also provided that the Kern Island Irrigating Canal Company is entitled to its proportion (as one of the second parties) of two-thirds of the excess during the six summer months of March to August, inclusive, each year, and to its proportion (as one of the second parties), of all of the excess during the six remaining winter months, if the water be diverted by second parties before reaching a specified point.

The Kern Island Irrigating Canal Company has been and is now diverting this water and has sold it to irrigators whose land can be supplied from their ditches, and has also delivered a part of this water supply to other companies for resale by them. Some of these other canal companies have the right to divert water from the Kern River, and water is sold to them by the Kern Island Irrigating Canal Company at such times as the quantity of water which these canal companies have the right to divert from Kern River is insufficient for the needs of their consumers. The record shows that this has occurred each year for a number of years.

It is clearly established in our opinion that Kern Island Irrigating Canal Company and East Side Canal Company are operating as public utilities. The Kern Island Irrigating Canal Company claims, however, that there are certain private contractual rights which they are obligated to fulfill, and which create rights preferential and prior to those of its other consumers.

The principle that a company may have dedicated only a portion of its water supply to a public use, and that the remainder may be devoted to a private use is well established by the decisions of the higher courts. Although this may be true in general, it remains to be determined as to whether or not defendant Kern Island Irrigating Canal Company, in this instance, had by its acts dedicated its entire water supply to a public use prior to entering the contractual relations which it contends are matters without the control of this Commission, and whether or not

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the delivery of water to the holders of these contracts is subject to the regulation and control of this Commission.

For the purpose of determining whether or not the original incorporators of the Kern Island Irrigating Canal Company intended to or did dedicate their entire service to a public use, the history of this company since its incorporation, and any acts prior to its incorporation by its predecessors, which would tend to show the intent to dedicate, have been carefully studied and will next be discussed.

It appears from the evidence that in 1870, or prior thereto, one Colonel Thomas Baker, the founder of Bakersfield, constructed a canal to what is known as "The Mill." This ditch was utilized for the purpose of generating power to operate the mill in question, and also for irrigation. Mr. H. A. Jastro, president of the Kern Island Irrigating Canal Company, stated that when he first came to Kern County in 1870, some lands were irrigated around Bakersfield from this canal and also lands in the so-called Canfield country and along the South Fork channel.

The evidence shows that Colonel Baker started to build what is now the Kern Island Irrigating Canal Company's system, and that later it was acquired by H. P. Livermore of Livermore & Chester, and that the canal was completed under the administration of Mr. A. R. Jackson.

The Kern Island Irrigating Canal Company was incorporated in October, 1870. Its original articles of incorporation state in part as follows:

> The undersigned citizens of the United States, desiring to form a joint stock company for the purposes hereinafter specified, do hereby certify our mutual agreement to incorporate under the laws of the State of California, in manner and form as follows:
>
> 1. The corporate name of the company shall be the "Kern Island Irrigating Canal Company."
>
> 2. The objects of the company shall be to protect from overflow and to supply with water for agricultural, domestic and manufacturing purposes the following described territory situate in Kern County and bounded on the north by Kern River, east by the east boundary of range twenty-eight east, United States surveys from Mount Diablo, south by Kern Lake and a line drawn east from the eastern extremity thereof, and west by that channel of Kern River commonly known as "Old River."

While no conclusive evidence was submitted to show specifically under what law of this state this company was incorporated, it appears to have been under the act of April 14, 1853, and the several acts amendatory thereof and supplemental thereto. This act, as modified by the act of May 14, 1862, which was supplemental to it, provided that corporations could be formed for the construction of canals for the transportation of passengers, for the purpose of irrigation or water power, for the conveyance of water for mining or manufacturing purposes, or for all such purposes.

It also provided that such corporations should have power to "establish, collect and receive rates, water rents or tolls, which shall be

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subject to regulation by the board of supervisors," and also the power to exercise the right of eminent domain. This act in effect gives to corporations organized under it the power to act as public service corporations for the supply of water for irrigation. The act of April 2, 1870 (Stats. 1870, 660), is supplemental to the act of April 14, 1853, and the act of 1862. This act is substantially similar to the act of 1862 except that it prescribes the mode for condemning private property for corporate purposes, and contains nothing corresponding to section 3 of the act of 1862, which section provides that the rates established by the company shall be "subject to regulation by the board of supervisors."

This act expressly repeals all parts of other acts which are in conflict therewith. It appears that the provisions of section 3 of the act of 1862 do not conflict with the act of 1870, but are entirely consistent therewith. Both statutes were in force when this company was organized, and it has, potentially, at least, the powers conferred by both. Thus it appears that Kern Island Irrigating Canal Company had the power, under its articles of incorporation, to act as a public utility company in distributing and selling its water.

On December 27, 1870, a contract was entered into between Kern Island Irrigating and Canal Company and the trustees of Swamp Land District No. 111, which swamp land district is included within the area of service of the Kern Island Irrigating and Canal Company as set out in its original articles of incorporation. This contract is generally known as the "Swamp Land Contract." It provided that Kern Island Irrigating Canal Company would construct within two years and keep in repair a levee to prevent the overflow of the Kern River; that it would build a levee around Kern Lake and build a canal with all necessary gates and flumes from Kern River to a point near the southerly boundary of township 29. All levees and canals were to be the property of the Canal Company. Swamp Land District No. 111 agreed that the landowners within the district would pay to the Canal Company the sum of $16,240 for which each land owner in the district was to receive one share of stock in the canal company for each $50 so paid. Furthermore, the swamp land district agreed to furnish rights of way. The contract also contained the following provisions:

> And the said party of the second part further agrees, that all work done by said company shall be held as the private property of the said Kern Island Irrigating Canal Company, with the right to use and dispose of the same and of the water passing through said canal and of all other extensions, canals or ditches made or to be made by said company. And the said trustees further agree to insure the right of way and all rights and privileges necessary for the economical and proper construction of said work and they guarantee the same to said company for the use and benefit of said Swamp Land District.
>
> Provided always, and this agreement is made on these express conditions:
>
> First: That the said company will give to each and every owner of swamp lands making payment of any portion of said sixteen thousand two hundred and forty dollars, one certificate of stock for every fifty dollars paid to said company, which

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shall entitle the holder to one vote and to all other rights and privileges of a stockholder in said company.

And provided further, that the owners of swamp lands within said District Number One Hundred and Eleven, shall at all times be entitled to a preference in the use of all waters passing through said canal, for irrigating and domestic purposes, and when demanded for such purposes, they shall be entitled to the exclusive use of said water.

And provided further, that the rules for the disposal of water shall be uniform and shall guarantee to each land owner within the district his fair proportion of all the water furnished, and at rates that shall not exceed, in the aggregate, the sum of ten per cent per annum on the capital stock of said company.

It is agreed between the parties to these articles, that the works above mentioned shall be completed within two years from the date hereof, and if the trustees shall fail to pay the installments as they become due, the same shall be binding on the district and shall bear interest from the date of approval by the trustees at the rate of two per cent per month until the same shall be paid in full.

Attention is directed to the fact that Swamp Land District No. 111 comprises only a part of the area to which the service of this company is dedicated, as set out in its original articles of incorporation. As a matter of fact the area to which this company showed its intent to serve by its statement in its articles of incorporation, which statement was made prior to the execution of the so-called swamp land contract, includes a considerable portion of the area now served from the East Side Canal Company, and a very large area outside of Swamp Land District No. 111.

Subsequent to the execution of the swamp land contract, the company proceeded with the construction of canals and levees. The evidence shows that water was first delivered from the extension and enlargement of the old canal in 1873, and that immediately thereafter the company sold water to homesteaders and others whose farms were outside of the boundaries of Swamp Land District No. 111 and within the boundaries of the areas served as defined in the company's articles of incorporation. It appears that when this canal was constructed, and it was learned by the public generally that water could be obtained from it for irrigation, that there was a rush to take up homesteads and preemptions within the territory served outside of Swamp Land District No. 111, which, at that time, was practically all owned by one man.

The Kern Island Irrigating Canal Company charged these irrigators for the water delivered to them. In 1876 special legislation was enacted (Stats. 1875–76, p. 547), which provided that the boards of supervisors of the counties of Fresno, Tulare and Kern should be exofficio water commissioners in and for these counties. The act further provides in section 10 that the board of supervisors acting as water commissioners shall fix the "maximum rate to be charged by ditch owners for water, per inch, for irrigation, manufacturing or mining purposes, which rate shall apply to ditches heretofore as well as to those hereafter constructed, whether under and by virtue of this act or any previous law of this state." It is further provided in section 11: "All

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acts and parts of acts, so far as they conflict with the provisions of this act, in the counties herein named, are hereby repealed."

The record does not clearly show, however, whether or not the Kern Island Irrigating Canal Company charged for water at rates established by the board of supervisors acting as water commissioners, as provided in the above mentioned act.

In the late 70's and early 80's other canal companies purchased water from the Kern Island Irrigating Canal Company whenever their supply was insufficient. Among these canal companies were the Stine, Buena Vista and Farmers. In 1885 the board of supervisors of Kern County fixed rates to be charged for water for irrigation, which rates became effective July 1, 1885, and while the ordinance fixing these rates does not specifically mention the Kern Island Irrigating Canal Company, it appears that the rates so established were charged by this company. Similar ordinances were enacted in 1886, 1887, 1893 and 1894. In 1897 the board of supervisors changed the rate theretofore fixed by it. In March, 1903, the board of supervisors passed the following resolution:

> The Kern Island Irrigating Canal Company, Farmers Canal Company, Buena Vista Canal Company and Stine Canal Company and Pioneer Canal Company filed annual statements of receipts and expenditures for the year ending December 31, 1902, and no objection being made to the present rate, and no protests having been filed, on motion of Bottoms, seconded by Woody, it is hereby ordered that the rate at which said canal companies shall sell water for the ensuing year shall be and is hereby fixed at 75 cents per cubic foot per second for 24 hours measured under a four-inch pressure.

It therefore appears that Kern Island Irrigating Canal Company charged for water of its consumers at the rates established by the board of supervisors without protest.

The evidence in this proceeding clearly shows that no difference was made by the Kern Island Irrigating Canal Company between irrigators within Swamp Land District No. 111 and other irrigators with respect to charges for water; in other words, that company has been charging for water at the rates fixed by proper public authority.

Briefly summarizing, we have here a company which apparently acquired a ditch which had theretofore been delivering water for irrigation and power purposes which it enlarged and extended. The company was incorporated under laws permitting it to operate as a public utility and dedicated its service to a large area definitely described in its original articles of incorporation. Immediately thereafter it contracted with a portion of the area to which it had dedicated its service to extend and enlarge the canal system and grant to the owners of the land to which the system was extended the right to receive service at rates not in excess of ten per cent upon the capital invested, in return for which the owners of the lands agreed to buy for cash a certain amount of the capital stock of the company. The contract also pur-

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ported to grant a preferential right to the use of the water. The company then proceeded with the construction of an enlarged and extended system and delivered water to all comers desiring it within the area of service. As a matter of fact, as the system was extended to certain lands, and even before its completion, water was sold to homesteaders whose lands were outside the boundaries of Swamp Land District No. 111, and a charge made therefor. This company later charged for water at rates established by the board of supervisors of Kern County without protest and clearly admitted itself to be a public utility.

In our opinion the original incorporation of the company and its acts since its incorporation, show an intent to dedicate to a public use its service in the area set out in its articles of incorporation, and that any contracts made thereafter by it are subject to the regulation and control of the properly constituted public authority, and that if contracts entered into by this company which provide for a preferential right to service are permitted to stand, this Commission would be permitting this company to carve out a private and preferential right to the use of water from a public one.

After a careful consideration of all of the evidence, it is hereby found as a fact that Kern Island Irrigating Canal Company has, since its inception, dedicated its service to a public use, and is therefore operating a public utility irrigation system as defined by the Public Utilities Act. As it is clearly established that East Side Canal Company is a public utility, as defined by the Public Utilities Act, it will be unnecessary to discuss this phase of the question herein. The Kern Island Company, having been operating as a public utility since its inception, is subject to the jurisdiction of this Commission in the matter of regulation of the delivery of water and the rates charged, even though it may have entered into contracts with certain consumers granting to them what appeared to be a preferential right.

It is fundamental in public service that one consumer can not have service rendered to him in the rendering of which the utility unjustly discriminates against other consumers. The Kern Island Company has heretofore entered into a number of contracts purporting to give preferential right to certain consumers. Among these contracts is the agreement between Swamp Land District No. 111 and the Kern Island Irrigating Canal Company. The terms and conditions of this contract have hereinbefore been set out in detail. It appears that to continue to give a preferential right to the use of water to owners of lands within Swamp Land District No. 111 would be unjust discrimination against other consumers of this company, and that, therefore, in times of shortage, irrigators within Swamp Land District No. 111 should receive only their fair share of the available water supply.

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On January 2, 1894, the Kern Island Irrigating Canal Company and the East Side Canal Company entered into a contract which provides for the delivery of the equivalent of 25 cubic feet per second continuous flow of water of the Kern Island Irrigating Canal Company to the East Side Canal Company in consideration of the payment of $3,750 per year. This delivery was conditioned upon Kern Island Irrigating Canal Company having sufficient water, after having fulfilled its obligations under the so-called Swamp Lands Contract and the Water Settlement Contract.

On January 15, 1896, a second contract was entered into by these companies providing for the delivery of the equivalent of five cubic feet per second continuous flow of water by Kern Island Irrigating Canal Company to the East Side Canal Company. The consideration was $750 per year, and the conditions were similar to those contained in the contract dated January 2, 1894. These two contracts last hereinbefore mentioned are the contracts pursuant to the provisions of which the East Side Canal Company now receives its water supply, and it is claimed by defendants that these contracts govern and that this Commission is without authority to require the delivery of an additional amount.

The above contracts purport to grant to the water users under the East Side Canal Company a right secondary only to that of irrigators within Swamp Land District No. 111. If these contracts were fully carried out, it would mean that water users upon other canals which purchased water from the Kern Island Company, and other water users outside of the boundaries of Swamp Land District No. 111, would be compelled to forego the use of water before users under the East Side Canal Company's system would be required to reduce their use of water in any manner. This would be clearly a discrimination against such other users.

The Kern Island Company entered into four other contracts in 1896 and 1898, which contracts purport to be the granting of a right by the Kern Island Company to a certain quantity of water at a certain specified rate in return for which the Kern Island Company receives certain water and ditch rights. These contracts were with the Bloomfield Land Association, Solomon Jewett et al., Manuel and Thomas Castro, and the Balfour-Guthrie Investment Company. A brief summary of the context of these contracts follows:

On March 14, 1896, Bloomfield Land Association entered into a contract with Kern Island Irrigating Canal Company whereby Bloomfield Land Association agreed to convey to Kern Island Irrigating Company a one-tenth interest in the South Fork Canal and all rights to which it is entitled therein. Kern Island Irrigating Canal Company

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agreed to furnish said association, for a consideration of $400 per year, sufficient water for the irrigation of certain described land, provided that the water used during any year should not exceed a continuous flow of five cubic feet per second. The furnishing of this supply was made contingent upon Kern Island Irrigating Canal Company having sufficient water in its canal and is subject to reasonable rules and regulations.

Defendant Kern Island Irrigating Canal Company, by contract executed May 16, 1896, with Solomon Jewett et al., agreed in consideration of the conveyance to it of an undivided one-twenty-fifth interest in the ditch known as the South Fork Canal, and certain water rights appurtenant thereto and the payment of $150 per annum, to furnish a supply of water not exceeding 2¼ cubic feet per second continuous flow.

On May 20, 1896, Manuel and Thomas Castro entered into a similar contract providing for the conveyance to Kern Island Irrigating Canal Company of a one-eighteenth interest in the Castro Ditch, and the furnishing of, by Kern Island Irrigating Canal Company, free of charge, a flow of water not to exceed one-fourth cubic foot per second continuous flow. One-half of the Castro land having been sold to Kern County Land Company an agreement was entered into between that company and Kern Island Irrigating Canal Company, dated June 13, 1899, cancelling the contract between the Castros and Kern Island Irrigating Canal Company, in so far as it concerns the land conveyed to Kern County Land Company.

On July 20, 1898, Balfour-Guthrie Investment Company entered into a contract with Kern Island Irrigating Canal Company whereby Balfour-Guthrie Investment Company agreed to convey to Kern Island Irrigating Canal Company a four-fifteenth interest in South Fork Canal and all its rights therein. Kern Island Irrigating Canal Company agreed to furnish Balfour-Guthrie Investment Company, for a consideration of $140 per year, sufficient water for the irrigation of certain described land, provided that the water used in any year should not exceed four cubic feet per second continuous flow. The furnishing of the supply was made contingent upon Kern Island Irrigating Canal Company having sufficient water in its canal and is subject to reasonable rules and regulations.

It appears from the text of these contracts and the evidence with relation thereto, that these four contracts were given in exchange for independent diversion rights from the river, and that this exchange is in effect a mere transfer of the point of use from the river to a point upon the Kern Island system, which benefits both the user and the Kern Island company. The holders of these contracts pay a lesser

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rate for this service than other water users of the system. In a case of this kind where agreements are entered into such as these, we are of the opinion that no unjust discrimination occurs and that these agreements should not be disturbed.

It now remains to determine whether or not, under all of the circumstances obtaining, complainants herein should receive a greater water supply than heretofore. In other words, the question which is in reality before the Commission is one which involves the question of whether or not water should be taken from one group of consumers and given to another. The defendants herein are not concerned with whom they deliver the water to, provided they assume no liability because of any change made. The Kern County Land Company, the parent company, is, however, interested to the extent that its lands might be deprived of a certain amount of water.

In order to more intelligently discuss the problem of the distribution of water among the consumers of the Kern Island Irrigating Canal Company, it may be well to describe briefly the operation of the various companies whose operations are interlaced with those of the Kern Island company. The rights of these companies to their water supply from the Kern River has been discussed heretofore herein.

In the operation of the sixteen canals involved the Kern Island Irrigating Canal Company is used as a clearing house for the diversions and deliveries of all of these canal companies, particularly those companies which have a right to divert water from the Kern River. All of these canal companies are operated and controlled by practically the same men, and are subsidiary companies to the Kern County Canal and Water Company which, in turn, is subsidiary to the Kern County Land Company.

The officials of these last mentioned companies are also the officials of the various canal companies. For example, Mr. H. A. Jastro is president and general manager of all of these canal companies except the East Side Canal Company, and is general manager of that concern. Mr. Jastro is also general manager of the Kern County Land Company. Mr. F. G. Munzer is the secretary and Mr. W. F. Whittaker is the engineer of all of these corporations.

The Kern Island company records the diversions of thees various canal companies during the year and charges against their right to divert from the river the amount so taken. It also charges against itself the quantity of water used by it, which it, in turn, delivers to its consumers, among which is the East Side Canal Company.

When the various canal companies have diverted water equal in amount to the quantity which they have the right to divert at the various stages of the river, and when the quantity in the river falls to

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a point below which they are entitled to any water, they, in turn, purchase water from the Kern Island company, which company, as before stated herein, has the right to the first 300 cubic feet per second flowing in the river. The Kern Island company is thus in the position with respect to these other canal companies of selling water and delivering it either to points upon their system where there are interconnecting canals or turning the water down the river from their headgates in order that it may be diverted into the other canals. The Kern Island Company has followed this practice for a number of years and has thus permitted the other companies to become consumers, and have established the point of delivery either at their headgate or at different points along their system.

Water has been delivered to the East Side Canal Company and by it to its consumers as application has been made by the consumers. The total quantity to which it is claimed the East Side is entitled per year under their contract is computed, and any water delivered is deducted therefrom. Thus, any use by consumers during the winter months reduces the quantity which they would receive during the summer. The users under all of the systems, including those within Swamp Land District No. 111, make application for water in the same manner. All of these applications are then assembled by the officials of the Kern County Canal and Water Company, who also are the operating officials of the other companies, and sufficient water is then diverted to deliver the quantity applied for, provided water is available in the river.

Counsel for the companies contends that the delivery of water by Kern Island Irrigating Canal Company to the East Side Canal Company for resale by them is not a dedication of such water to public use and does not create the relation of public service company and consumer, either between the selling and purchasing companies or between the selling company and the customers of the purchasing company.

After a careful consideration of the matter, we are of the opinion that in this instance the East Side Canal Company, if it may not be considered as the same company in fact as the Kern Island company, is a consumer of the Kern Island Company and receives its supply within the area to which the service of Kern Island Irrigating Canal Company is dedicated. The East Side Canal Company purchases this water and becomes the owner thereof. The water is then distributed by it for irrigation of lands under its system, a large portion of which lands are within the area to which the Kern Island Company has dedicated its service. Furthermore, the consumers under the East Side Canal Company have for many years irrigated their land with

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this water, and under section 552 of the Civil Code, and chapter 80 of the laws of 1913, are entitled to a continuance of this service.

We are of the opinion that the East Side Canal Company is as much a consumer of the Kern Island Company as any corporation or individual now receiving their supply from that source. This is true, in our opinion, not only of the East Side Canal Company, but also of the other canal companies that have regularly purchased water from the Kern Island Company within the area to which that company's service has been dedicated. This does not, however, in any manner make the consumers of the East Side Canal Company consumers of the Kern Island Irrigating Canal Company. Water users from the East Side Canal Company must look for their service and water supply to that company, and that company in turn must look to the Kern Island Irrigating Canal Company for its supply.

It has been claimed that the Kern Island Irrigating Canal Company is delivering a part of its surplus water to the East Side Company. In regard to this we desire to point out that during the past twenty-three years that company has delivered at least the amount called for in the contracts and for more than five years last past has delivered in excess of the contractual amount. This has been true even though a shortage of water has existed during this period. It certainly can not be contended that the Kern Island Canal Company has been delivering a surplus for temporary use to the East Side Company, and that it has primarily dedicated its supply to the area within Swamp Land District No. 111. This could only be done to the detriment of all of its other consumers except those residing within Swamp Land District No. 111. We do not believe that this is the case and are of the opinion that the Kern Island Company is acting within its scope as a public utility in delivering this water to the East Side Canal Company.

The evidence clearly shows that the entire water supply available to all of these canal companies is fully utilized and that an additional supply can not be economically obtained. Thus, if consumers under the East Side Canal Company are to receive an additional supply over and above that which they have heretofore received, it would be necessary for this Commission to direct these companies to withdraw a certain portion of the supply which they have heretofore delivered to consumers other than those under the East Side Canal Company, and deliver the supply so withdrawn to complainants.

It is contended by complainants that consumers under the Kern Island system and other companies, such as the Buena Vista, and especially those consumers within Swamp Land District No. 111, are using a greater amount of water than is necessary for their needs, and that in fact so great a quantity of water is used in many instances

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that the land is damaged. It is further contended that land under the East Side Canal Company requires a greater amount of water to satisfactorily irrigate it than those under the Kern Island system. However this may be, consumers under the Kern Island system and other systems, such as the Buena Vista, have for many years been receiving this supply of water and contend that the entire supply heretofore received by them is necessary for the satisfactory irrigation of their lands. Indeed, in many instances it was claimed by consumers other than those under the East Side Canal Company that the supply delivered to them during the past few years was inadequate and that a much larger quantity could be economically used by them, which increased use would materially increase the crop yield of their lands. Under some systems, such as the Calloway, it was shown that only one or two irrigations are received annually, and those early in the irrigation season. Because of this fact irrigators under such systems harvest only one or two crops of alfalfa, instead of five or six which they could harvest if sufficient water for irrigation were available. Thus it is seen that many of the canals in this vicinity have a much less quantity of water available per acre than has the East Side Canal Company.

The available water supply is so limited, and the right of user has become so well established that it would be impossible, under present conditions, to so redistribute the water as to work justice to all concerned. In our opinion the solution of this matter is that which the landowners in Kern County are now attempting to promote, notably, the construction of an impounding reservoir to impound the winter flood waters of the Kern River and deliver them during the irrigation season for the irrigation of the lands which do not now have an adequate supply. Under section 552 of the Civil Code, and chapter 80 of the laws of 1913, this Commission can not injuriously withdraw a portion of the supply heretofore received by a consumer in order to benefit other consumers or to supply water to new consumers.

After a careful study and thorough analysis of the situation, we are of the opinion that those users who have through a long period of years received a certain supply of water, are entitled to a continuance of use of that water and that even though this Commission has authority over the Kern Island Irrigating Canal Company with respect to service rendered by that company, it would be inequitable for it to deprive other users of water in order that this company and the East Side Canal Company might be enabled to deliver an additional supply of water to complainants herein.

We are of the opinion, however, that the East Side Canal Company and the Kern Island Irrigating Canal Company should continue to

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deliver the same quantity of water to the East Side Canal Company's consumers as they have heretofore. In other words, we do not believe that the East Side Canal Company should reduce the actual quantity of water delivered to its consumers by twenty per cent, which is the amount it claims has been delivered in excess of the quantity due, owing to mistakes in measurements. Furthermore, the records show that whereas the exact contractual amount is some 22,000 acre feet per year, this company has delivered an average of 25,500 acre feet per year for the past twenty-three years. The quantity last herein mentioned we believe should be delivered to these consumers in the future.

If a shortage of water occurs, such that it is necessary to prorate the available supply, complainants herein and other consumers under the East Side Canal Company's system should have their supply reduced only in proportion to the reduction in supply to other consumers. On the other hand, if a surplus exists, consumers under the East Side are entitled to their fair share of it.

The engineers of the Commission have carefully checked over the engineering features of this proceeding and have carefully studied the data submitted relative to water use, the distribution of water, the method of measurements and other engineering features. The data submitted by Mr. H. L. Haehl, engineer for the company, relative to his experiments with the measuring device used by the East Side Canal Company, have been carefully checked over, and our engineers report that Mr. Haehl's computations are correct and that undoubtedly the company has been delivering a quantity of water to the East Side users over and above that recorded by their measuring devices.

Complainants in this proceeding allege that the East Side Canal Company did not keep its canals in proper repair, failed to deliver the quantity of water to them which the canal can carry when operated to capacity, and that the service rendered was intermittent.

The record is not clear with respect to the condition of the East Side Canal Company's main canal; however, we wish to direct attention to the losses in this canal, which were some 37 per cent as compared to a loss of approximately 21 per cent under the Kern Island system. In directing attention to these losses, consideration must be given to the fact that the East Side Canal Company extends through a territory which has much more porous soil than the district through which the Kern Island system extends. However, in view of the fact that there is not a sufficient water supply available to irrigate all of the lands in this vicinity, the East Side Canal Company and all other canal companies in this district should exercise extreme care in repairing and cleaning their canals in order that losses from seepage, et etcera, may be reduced to a minimum. This is not only true of the canals

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owned and maintained by the company, but also of those canals owned by consumers. The consumers should be as careful, if not more so, in repairing their canals and keeping them in condition in order to prevent losses.

A joint inspection of canals and irrigated areas under the systems of the Kern Island Irrigating Canal Company and the East Side Canal Company was made by representatives of complainants, defendants, and the Commission's Hydraulic Engineering Division. This inspection indicates that the irrigators' supply ditches are in rather poor shape in both localities, those under the East Side being in slightly better condition than those under the Kern Island system. This same inspection, however, shows that the lands under the Kern Island, as an average, are better prepared for irrigation than these under the East Side Canal. The preparation of land for irrigation, and the condition of ditches delivering and distributing the water have a very marked effect upon the quantity of water necessary for irrigation. Care should be exercised by the utilities and irrigators alike in this matter. In the past consumers have been required to file their applications for water with the company. Water was then delivered to them in the chronological order of the filing of the application, and entirely regardless of the consumer's location on the ditch. It is apparent that this method tends to inefficient operation and increases the loss by seepage, transpiration, et cetera. This is obvious when it is pointed out that a consumer near the intake of the ditch and one at the extreme end of the ditch may apply for water on the same day and be entitled to receive it at the same time, thus necessitating the company's keeping the entire ditch filled with water in order to make these two deliveries. We deem it advisable that a rotation schedule of deliveries be established in order to conserve water in every possible way, which schedule of deliveries should provide for the delivery of water in an orderly manner to those irrigators in a certain neighborhood at one time, and at some later date to irrigators in another neighborhood. By so doing a larger head can be run in the canals and laterals and the percentage of loss decreased.

Mr. Haehl's experiments tend to show that the soil under the East Side Canal Company can not retain more water sufficiently close to the surface to be of benefit to the plants irrigated than the amount which would percolate through it from a five-inch irrigation. Practically all the irrigators under this system average one foot or more per irrigation. As a matter of fact, in June, 1919, almost 15 inches per average irrigation was applied by the irrigators of alfalfa under the East Side Canal Company's system. In July, 1919, more than 18 inches was applied on the average in the irrigation of field crops, and almost 14

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inches for the irrigation of vineyards. The average for all crops under the East Side was 13.3 inches per irrigation, of which not more than 5½ inches was retained by the soil sufficiently close to the surface to be of benefit to the crops. The balance wasted into the subsoil. This indicates that users under the East Side Canal Company and, as a matter of fact, practically all users in this district, are applying too much water per irrigation. In our opinion, a lesser quantity should be applied per irrigation and the crops should be irrigated more frequently. This would materially reduce the quantity of water necessary to be diverted from the ditch in order to assure the irrigator that his crops have the proper amount of water.

In view of the fact that the problems herein presented to the Commission are much involved and of complicated nature, the various phases of the matter have been discussed fully. It is contended by defendants that the issues herein presented involve only the question as to whether or not the East Side Canal Company has maintained its canal in proper condition to render service, and whether or not it is obligated to maintain in its canal a continuous flow of water and to the extent of the canal's capacity during the irrigation season.

We are of the opinion that the question of whether or not the East Side Canal Company can secure an additional supply of water from Kern Island Irrigating Canal Company, which question is involved herein, is one which requires a survey and analysis of the entire operations of the Kern Island Company. Furthermore, in order to come to a conclusion in this matter, the right of the East Side water users and the East Side Canal Company with respect to the other consumers of the Kern Island Irrigating Canal Company must be given careful consideration, as upon the rights of these various consumers depends the right of the East Side water users, and in turn, the East Side Canal Company, to receive water. Therefore, we have deemed it advisable to discuss this matter from the broadest aspect of the issues herein presented.

We find here, in the Kern Island Irrigating Canal Company, a company which, in our opinion, has been since its inception acting as a public utility water company, and as such is subject to the regulatory powers of this Commission. This company has available for its use only a limited supply of water, which can not readily be increased. It has, in the past, devoted its entire water supply to beneficial use. It has been and is confronted with the problem of allocating to its various consumers the water supply which it has available, the quantity of which varies in different years, dependent upon the yield of the watershed of Kern River, which fluctuates with the quantity of rainfall in each year. Its right to divert from the stream, except what might be termed its basic supply of 300 cubic feet per second, is dependent

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upon the rights of the other canal companies and individuals, which rights it must respect. The problem concerns not alone the Kern Island Company, but also the other canal companies diverting water from Kern River, and is one with so many varying factors and so complicated that it is very difficult to arrive at an equitable solution. This Commission can not give to any water user or consumer a preferential right over another consumer, nor authorize or permit a utility to grant discriminatory or preferential service to any of its consumers, to the detriment of others.

There is an area susceptible of irrigation in Kern County many times as large as the present available water supply can irrigate, and therefore the available water should be made to perform its highest duty. The various utilities should do all in their power to reduce the loss of water in transmission and distribution to a minimum, and the consumers, in their turn, should conserve water in every manner possible.

Wherever possible the water users should reduce their use of water to a quantity consistent with good irrigation practice. Irrigators' and companys' ditches should be kept in good shape and proper distribution methods should be put into effect, and every possible means utilized to conserve water. If this is not done, the area which can be irrigated by the available supply will be reduced, and the district as a whole will suffer loss because of a reduction in the quantity of its products.

We do not deem it proper, in this proceeding, to direct the method of proration in case of a shortage of water supply, nor the method of allocating any available surplus which may occur. However, we suggest that this be done in accordance with the principles set out in this opinion. Nor, in view of the scope of this proceeding, will the Commission direct defendants to alter their methods of operation, except in the establishment of a rotation schedule of deliveries, which, in our opinion, will be of benefit to the consumers and companies alike. Clearly we can not in justice direct the Kern Island Company to deliver to complainants herein the quantity of water which the East Side Canal Company's canal can carry, which is between 100 and 125 cubic feet per second, as this would mean depriving other consumers of a large part of the water now utilized by them.

It will be noted that the whole situation of the diversion of water from Kern River has been discussed herein from various angles. The matter has been analyzed with infinite care and in much detail in order that all concerned may have a clear understanding of the various phases of the problem. As all matters which were taken up in the previous order herein have again been taken up and discussed in detail,

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the opinion and order heretofore issued in this proceeding (Decision No. 6383) will be set aside.

ORDER.

Kern Island Irrigating Canal Company and East Side Canal Company, having asked that a rehearing be granted in the above entitled matter, and a rehearing having been granted and public hearing having been held on said rehearing, and the matter having been submitted, and being now ready for decision;

It is hereby ordered:

1. That this Commission's Decision No. 6383, dated June 3, 1919, in the above entitled proceeding be and it is hereby rescinded and set aside.

2. That defendant East Side Canal Company be and it is hereby directed to file with the Railroad Commission, within twenty (20) days from the date of this order, a schedule of rules and regulations, providing, among other things, for a rotation schedule of deliveries of water, said schedule to be placed in effect as amended or changed by the Commission within ten (10) days from its approval by the Commission.

3. That East Side Canal Company be and it is hereby directed to maintain its canal system in such condition that it can deliver to its consumers, without undue or excessive loss of water from its canals, the maximum amount of water to which said company is entitled.

4. That Kern Island Irrigating Canal Company be and it is hereby directed to deliver to East Side Canal Company, for resale by that company to its consumers, a minimum of 25,500 acre-feet of water per year, provided, however, that in years of drought and consequent shortage of water supply, the amount delivered shall be decreased only in proper ratio to the decrease in supply, and in years in which an increased supply is available, the quantity of water delivered shall be increased and equitably prorated among all consumers.

It is hereby further ordered, that in all other respects the complaint herein be and it is hereby dismissed.

Dated at San Francisco, California, this thirtieth day of June, 1921.

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DECISION No. 9196.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR READJUSTMENT OF SWITCHING CHARGES AT SAN FRANCISCO, OAKLAND AND LOS ANGELES, CALIFORNIA.

Application No. 6390.

Decided June 30, 1921.

Elmer Westlake, for Southern Pacific Company.

Sanborn and Rochl, by *A. B. Rochl*, for South San Francisco Chamber of Commerce.

Seth Mann, for San Francisco Chamber of Commerce.

E. W. Hollingsworth, for Oakland Chamber of Commerce.

BENEDICT, *Commissioner*.

OPINION ON APPLICATION FOR REHEARING.

On June 1, 1921, the Southern Pacific Company, defendant in this proceeding, filed with the Railroad Commission a petition for a rehearing on Decision No. 8960, Application No. 6390, issued May 12, 1921.

This proceeding involves the switching charges and the switching limits at San Francisco, Oakland and Los Angeles and is supplemental to and a part of Cases Nos. 1149 and 1433, the first of which, after having been submitted, was dismissed without prejudice on October 2, 1919, because of federal control, and the second was disposed of October 11, 1920 (Decision No. 8221). By Decision No. 8221 this defendant was ordered to remove, among other adjustments, on or before December 10, 1920, the discriminations found to exist in the intrayard switching charges at San Francisco, Oakland and Los Angeles. This application to make the intrayard switching adjustments was presented upon an informal petition December 2, 1920, but by reason of protests from interested shippers was placed on the formal docket under No. 6390, and hearings were held at San Francisco and Los Angeles.

The effective date of our order in Decision No. 8960 was, upon request of the defendant, extended to June 13, 1921, and further extended to July 11, 1921.

Oral arguments upon the petition for a rehearing were presented before Commissioner Benedict on June 27, 1921, by the defendant, complainant, and the interveners and the matter is now ready for final action.

The petitioner presents nine reasons why a rehearing should be granted, but it will not be necessary to deal with each contention, the main objection being that Decision No. 8960, May 12, 1921, is unlawful on the grounds that it is not supported by evidence; that the rates prescribed are confiscatory; that there was no evidence before the Commission upon which to predicate the proposed rates; that the order is in violation of the state constitution and of the Public Utilities Act, and

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that it would interfere with similar traffic in connection with interstate and foreign commerce.

The South San Francisco Chamber of Commerce filed a motion seeking modifications of the decision and order in connection with the minimum carload charges, and alleged violation of the long and short haul provisions of the state constitution and the Public Utilities Act. The matters referred to in this motion have received our consideration and we see no reason why the suggested changes should be made in the order as outlined by the complainant.

The controversy involving this switching situation has been before us since September 19, 1917, when original Case No. 1149 was filed. There have been four submissions—first, in Case 1149; second, in Case 1433; third, in Application 6390 and fourth, on this argument for a rehearing. A total of 31 exhibits were filed by the complainant, one by the interveners and 41 by the defendants. The transcript of all testimony covers 1427 pages. Certainly the petitioner has had every opportunity to present its side of the situation.

In the light of the whole record, which has been carefully reviewed and reconsidered, we adhere to our original conclusion as to the justness and reasonableness of the rates ordered in.

We see no merit in the application for rehearing.

ORDER DENYING APPLICATION FOR REHEARING.

The defendant having, on June 1, 1921, filed an application for rehearing herein and the Commission having heard the oral arguments on June 27, 1921, and being of the opinion that there is no merit to applicant's contention;

It is hereby ordered, that the application for a rehearing be and the same is hereby denied.

It is hereby further ordered, that the adjustment of the switching charges and the switching limits as set forth in Decision No. 8960, Application No. 6390, May 12, 1921, be published in proper tariff and become effective July 11, 1921.

Dated at San Francisco, California, this thirtieth day of June, 1921.

DECISION NO. 9197.

IN THE MATTER OF THE APPLICATION OF SAN FERNANDO TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE STOCK.

Application No. 6923.

Decided June 30, 1921.

Walter F. Dunn, for Applicant.

LOVELAND, *Commissioner.*

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OPINION.

San Fernando Telephone and Telegraph Company, a corporation, asks permission to issue and sell at par $10,000 of its common capital stock and use the proceeds to pay the cost of plant extensions, additions and betterments.

Applicant was organized on or about July 31, 1914. It reports $9,900 of stock outstanding. Its funded debt consists of an $18,250 6 per cent note secured by a mortgage upon its properties. For 1920, applicant reports operating revenues of $18,019.11, and operating expenses, including taxes, amounting to $13,087.01, leaving $4,932.10 available for interest, rent and dividends. During 1920, the company paid an 8 per cent dividend, such payment amounting to $792.

All of applicant's outstanding stock is owned by J. M. Baldwin, Walter F. Dunn and R. J. McHugh. It appears from the record that applicant's stockholders have agreed to purchase from time to time as applicant may need funds the $10,000 of stock, which it asks permission to issue.

Applicant reports that its business has been increasing rapidly and that it must make additional provision to properly take care of such increase. A large portion of applicant's anticipated expenditures will be brought about by taking on new subscribers. It appears that applicant can not at this time furnish the Commission with a detailed list of its estimated expenditures for plant extensions, additions and betterments.

The order herein will permit applicant to issue and sell the stock and require applicant to deposit the proceeds in a special fund. Whenever applicant desires to use part of the proceeds obtained from the sale of the stock, it should file with the Commission a detailed statement of expenditures incurred or to be incurred. Following the filing of such a statement, the Commission will make an order authorizing the disbursement of the proceeds from the sale of the stock for such purposes as it may deem appropriate.

I herewith submit the following form of order:

ORDER.

San Fernando Telephone and Telegraph Company having applied to the Railroad Commission for permission to issue and sell $10,000 of stock and use the proceeds to pay for plant extensions, additions and betterments, a public hearing having been held and the Commission being of the opinion that applicant's request should be granted;

It is hereby ordered, that San Fernando Telephone and Telegraph Company be and it is hereby authorized to issue and sell, for cash, at not less than par $10,000 par value of its common capital stock.

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The authority herein granted is subject to the following conditions:

1. All proceeds realized from the sale of the stock herein authorized shall be deposited by applicant in a special fund and expended only for such purposes as the Railroad Commission may hereafter authorize by supplemental order or orders.

2. San Fernando Telephone and Telegraph Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of June, 1921.

DECISION No. 9200.

IN THE MATTER OF THE APPLICATION OF SONOMA VALLEY WATER, LIGHT AND POWER COMPANY FOR PERMISSION TO PURCHASE THE SONOMA CITY WATER WORKS, THE SONOMA VISTA WATER COMPANY, AND THE O'BRIEN RANCH; AND FOR PERMISSION TO ISSUE BONDS AGAINST THE COMBINED PROPERTIES AND TO CONSTRUCT A DAM FOR STORAGE OF WATER FOR BOTH DOMESTIC AND IRRIGATION PURPOSES AND TO OPERATE THESE PROPERTIES AS ONE AND TO EXTEND THE DISTRIBUTING SYSTEMS OF THE THREE COMPANIES.

Application No. 6637.

Decided July 2, 1921.

WATER UTILITY—CONSOLIDATION.—Commission denied application of Sonoma Valley Water, Light and Power Company to issue $260,000 of bonds to acquire and consolidate the Sonoma City Water Works, Sonoma Vista Water Company, and the O'Brien Ranch until the stockholders of the applicant company secure $100,000 from its present or future stockholders.

H. A. Encell, for Applicants.

BY THE COMMISSION.

OPINION.

The Railroad Commission is asked to make an order authorizing the transfer to and the purchase by Sonoma Valley Water, Light and Power Company of the public and nonpublic utility properties of the Sonoma City Water Works, Sonoma Vista Water Company, and the O'Brien Ranch; the execution of a mortgage by Sonoma Valley Water, Light and Power Company to secure the payment of $260,000 of first mortgage 8 per cent thirty-year bonds, and to issue and sell said bonds, and the

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construction of a dam and other improvements. Hearings were had on this application before Examiner Satterwhite on April 16 and May 17.

It is proposed by those interested in this application to consolidate under one ownership the public utility properties now owned and operated by Sonoma Valley Water, Light and Power Company, Sonoma City Water Works, and Sonoma Vista Water Company, and to augment the water supply of the consolidated company by building a dam at or below the junction of Lennox and Carriger creeks. The construction of a dam at that point will store water in which the O'Brien ranch has an interest. It is therefore proposed to acquire this ranch, consisting of approximately 998 acres, at a cost of $50,000 and thus secure unquestioned control of the dam site and water rights appertaining to the ranch. About 100 acres of the O'Brien ranch are necessary for the project. It is urged that the owners of the land refuse to sell the necessary acreage for the reservoir separate and apart from the entire ranch. O. R. Wagner has appraised the O'Brien ranch properties at $40 an acre, while R. E. Child, consulting engineer, in applicant's Exhibit "B" estimates the water rights on Carriger Creek, Lennox Creek and springs on the ranch at $33,500. He estimates the minimum yield of water at 1500 acre-feet per annum. The record shows that his estimates are not based on accurate stream-flow measurements, nor has the amount of flow of any of the springs, which is to constitute a large proportion of the total supply, been accurately determined. The most that can be said in this connection is that the purchase price of the O'Brien ranch does not appear unreasonably high.

The Sonoma Valley Water, Light and Power Company was organized in 1910. It reports $100,000 of stock outstanding, all of which, except directors' shares, is owned by Wilfred Chester. The property is said to be free and clear of any encumbrances, other than the last semi-annual taxes. The property of the company is reported to consist of 304.5 acres of land located one mile west of El Verano, a town lot in Sonoma, two franchises—one from the city of Sonoma and the other from the county of Sonoma, two small intake dams on Carriger Creek, ½ mile of 8-inch casing and ½ mile of 4-inch wood stave pipe leading to the storage reservoir, a 10,000,000 gallon stone and concrete reservoir for storage purposes, ½ mile of 8-inch casing and 3½ miles of 8-inch wood stave pipe leading into and through the town of Sonoma, 3 miles of 4-inch wood stave pipe, 1 mile of 2-inch cast-iron pipe, 300 feet of other cast-iron pipe, together with connections and laterals for about 175 consumers. The testimony and record shows that this water plant, taken as a whole, is in a poor state of repair and operating condition. The reservoir can not be used in its present condition, practically no service is rendered in the town of Sonoma and the company instead of

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serving 175 consumers, has but 75 and during the past few years experienced considerable trouble in giving proper service to these.

Louisa V. de Emparan and Marie V. de Cutter, copartners, doing business under the firm name and style of Sonoma City Water Works, ask permission to sell to Sonoma Valley Water, Light and Power Company certain properties for the sum of $60,000. The properties consist of 280 acres of land and a water system supplying the city of Sonoma. The source of supply for this system is the "Lachryma Montis" spring located on the Vallejo ranch near Sonoma. The distributing system is confined to the city of Sonoma. About 260 services are connected with the system, approximately 70 per cent of which are metered.

The Sonoma Vista Water Company asks permission to sell its properties to the Sonoma Valley Water, Light and Power Company for $10,650. It supplies a district adjoining El Verano on the north. It obtains its water supply from two wells, which are reported to run dry sometimes during the summer. There are 120 services on the system, of which about 88 per cent are metered.

It appears from the record that R. L. Durham has options on the Sonoma City Water Works properties, the Sonoma Vista Water Company and the O'Brien ranch, and that he has agreed to assign his options to the Sonoma Valley Water, Light and Power Company for $10,000. The total payment for the properties, exclusive of the $10,000, is $120,650.

The three water systems have 455 services. An appraisal of the properties, other than the lands, to be consolidated has been prepared by R. E. Child. The land has been appraised by O. R. Wagner of Sonoma. Including Wagner's land appraisals, R. E. Child estimated the reproduction cost new of the properties at $336,957 and the reproduction cost less depreciation at $297,673. In making his appraisal, R. E. Child gave no consideration to the properties which would be abandoned if the companies were consolidated. Following the hearing, a statement was filed in which R. E. Child reports that $32,627.78 represents the reproduction cost less depreciation of property that would be abandoned as a result of the consolidation. Deducting the $32,627.78 from the $296,673, leaves a balance of $264,045.22. This last-named amount includes an allowance of $95,357 for land and $83,000 for franchises and water rights. Deducting these two amounts from the $264,045.22 leaves $85,682.22 for structures, transmission and distribution pipes and properties.

In his report, applicants' Exhibit "B," R. E. Child suggests that the company construct a dam 95 feet high at or below the junction of Lennox and Carriger creeks. He believes that this can be built at a cost of $120,000 and that with some winter and early spring irrigation, at least 1500 acre-feet of water would be available for sale per annum. He

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further suggests that $40,000 be expended for the installation of irrigation pipe lines, $9,000 for improvements to the domestic water system and $20,350 be allowed for miscellaneous and legal expenses, making a total expenditure of $189,350 for construction and miscellaneous purposes. To acquire the properties of Sonoma City Water Works, Sonoma Vista Water Company, and the O'Brien ranch, under existing options, the company, as stated above, will have to spend at least $120,650 additional, or a total of $310,000 for the acquisition of the properties and the construction of the dam and other improvements suggested by R. E. Child.

Sonoma Valley Water, Light and Power Company asks permission to execute a mortgage securing the payment of $260,000 of first mortgage 8 per cent thirty-year bonds and sell such bonds at not less than 90 per cent of their face value and accrued interest. If sold at 90, the bonds will net the company $234,000 or $76,000 less than the amount required by it according to present estimates. Adding to this amount the interest on the $260,000 of bonds, which interest the company will not earn during 1921–22, a sum of from $90,000 to $100,000 will result, which amount the company will have to raise from a source other than the sale of its bonds. No detailed estimates of the cost of the proposed dam have been submitted, and it appears that no borings have been made to determine the depth and the character of bedrock where it is proposed to construct the same. It is obviously impossible to accurately estimate the cost of the construction of the dam without such information. The Commission can not predicate an order authorizing the construction of the dam, on the information submitted by applicants.

It is urged that if this application is granted, the Sonoma Valley Water, Light and Power Company can secure the funds, other than the $234,000 from the sale of the bonds necessary to acquire the properties, construct the dam and for other purposes, from the sale of preferred stock, the sale of nonoperative property and from the sale of wood and rock. Testimony has been introduced showing what profits might be realized from the sale of wood and that there will be a demand for rock for street paving and highway construction. It also appears from the record that $30,000 has been offered for 900 acres of the O'Brien ranch, one-half to be paid in cash and the balance to draw interest at the rate of 6 per cent per annum; and that another offer of $35 an acre for the land not needed for the reservoir site has been received. The offer of $35 an acre is practically the same as the $30,000 offer. For the nonoperative properties of Sonoma City Water Works an offer of $60,000 is said to have been received payable at the time the property can be sold by those making the offer. The parties who made this offer agree to pay the same rate of interest on the $60,000 as the company pays interest on its bonds. It is evident that the only offer made that can be

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reduced to an immediate cash basis is that for the O'Brien ranch, which will net the company $15,000, a sum wholly inadequate to enable those interested to carry forward this project expeditiously.

There appears to be considerable merit in the consolidation of the properties, provided it is done expeditiously and economically. The plan submitted by applicants does not carry with it any assurance that the dam, the irrigation system and improvements will be constructed without any undue delays. In our opinion, the consolidation of the properties and the construction of the improvements has only been partially financed. The suggestion has been made that preferred stock might be sold to raise some of the necessary funds. The application, however, was not amended to cover the issue of preferred stock.

It occurs to us that some of the money necessary to complete this project should be secured either through an assessment of the present stockholders of Sonoma Valley Water, Light and Power Company, or the sale of stock, or both. The present outstanding stock is, we believe, out of proportion both as to the investment made by its owners and the reasonable value of the property. The greater portion of the outstanding stock should be canceled, or the present owners contribute a substantial sum to the enterprise without the issue of any additional stock to them. To properly establish this business, approximately $100,000 should be secured from the present or prospective stockholders, and until a satisfactory showing is made that such an amount can be secured from them, no order authorizing the issue of the bonds will be made by this Commission. In view of this conclusion, it is not necessary to consider the provisions of the proposed mortgage or the detailed purposes for which it is desired to expend the proceeds from the sale of the bonds.

ORDER.

Sonoma Valley Water, Light and Power Company having applied to the Railroad Commission to execute a mortgage to secure the payment of $260,000 of 8 per cent thirty-year bonds and to issue and sell said bonds for the purpose of paying in part the purchase price of the properties of the Sonoma City Water Works, the Sonoma Vista Water Company, and the O'Brien ranch, and the cost of constructing a dam, an irrigation system and other improvements, and the owners of the Sonoma City Water Works, and Sonoma Vista Water Company having asked permission to sell their properties, public hearings having been held and the Commission being of the opinion that Sonoma Valley Water, Light and Power Company should secure at least $100,000 from its present or future stockholders as a condition precedent to the issue and sale of bonds for the purposes mentioned in the foregoing opinion;

It is hereby declared, by the Railroad Commission of the State of California, that it will not authorize Sonoma Valley Water, Light and

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Power Company to issue $260,000 of bonds for the purposes mentioned in the foregoing opinion, until said company has secured in cash at least $100,000 from its present or future stockholders. If the company intends to secure any of said $100,000 through the sale of stock, a proper application for permission to issue and sell stock must be filed with the Commission. When Sonoma Valley Water, Light and Power Company has secured at least $100,000 from present or future stockholders, the Commission will make the necessary order in this proceeding authorizing the issue and sale of the bonds and transfer of the properties referred to in this application.

Dated at San Francisco, California, this second day of July, 1921.

DECISION No. 9201.

RIVERS BROTHERS COMPANY, INCORPORATED,

vs.

TERMINAL REFRIGERATING COMPANY AND LOS ANGELES ICE AND COLD STORAGE COMPANY.

Case No. 1496.

Decided July 2, 1921.

WAREHOUSES—SEASONAL RATES—JURISDICTION.—With the relinquishment of the Food Administration's control in February, 1919, food warehouses were under no jurisdiction as to charges until July 22, 1919, when the Food Warehousemen Act became effective.

Charles Clifford, for Rivers Brothers Company.

Oscar Mueller, for Los Angeles Ice and Cold Storage Company, and Terminal Refrigerating Company.

Rex Hardy, for Klein-Simpson Fruit Company et al.

MARTIN, *Commissioner*.

OPINION.

Complainant, Rivers Brothers Company, is a corporation engaged in the wholesale fruit and produce business at Los Angeles.

By complaint filed September 16, 1920, it alleges that the charge assessed for the storage of apples in warehouses of the defendants in excess of a season rate of 25 cents per box is discriminatory, excessive and unlawful. It is further alleged that the failure of these defendants to maintain a season rate on apples of 25 cents per box is in violation of section 12 of the Food Warehousmen Act and section 19 of the Public Utilities Act. Reparation is asked.

The complaint recites that, effective July 22, 1919, there was established for the cold storage of apples a rate of 9 cents per box for the first month, and 5 cents per box for each month thereafter, with no provision for a season rate, although there was in effect at the time

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a season rate of 25 cents per box in the food warehouses operated in San Francisco.

Complainant's main contention is that these defendants should have established and continued in effect season rate of 25 cents per box for the cold storage of apples in their Los Angeles warehouses.

There was before the Commission at the same time this case was presented Applications Nos. 6007, 6043, and 6052, involving the cold storage rate of the Los Angeles Ice and Cold Storage Company, the Merchants Ice and Cold Storage Company, and the National Ice and Cold Storage Company. It was stipulated and agreed that the testimony and exhibits entered in connection with the three applications for increases in the cold storage rates at Los Angeles would be considered in the instant proceeding wherever relevant.

Hearings were held in Los Angeles in September and November, 1920, and January, 1921, in connection with Applications Nos. 6007, 6043, and 6052 and, under date June 24, 1921, by Decision No. 9139, the applications to increase the cold storage rates were denied. This decision gives historical data and other facts bearing upon the rates and service and it will not be necessary to here repeat the details.

The complainant submitted two exhibits, one showing the total number of boxes of apples stored with the Los Angeles Ice and Cold Storage Company, the other the same information with reference to the Terminal Refrigerating Company, giving the storage charges paid and the charges that would have accrued under a season rate of 25 cents per box.

The evidence adduced by the complainant bears principally upon the contention that defendant's failure to publish a season rate on apples at Los Angeles, July 22, 1919, the date "Food Warehousemen Act" became effective, was discriminatory when compared with the season rates continued in effect at San Francisco, Watsonville and other points within California, and at certain points on the Pacific Coast outside of California. There was no testimony given upon the reasonableness of the rate *per se*.

In Decision No. 9139 (Applications Nos. 6007, 6043, 6052), we employed the following language:

> The tariffs and rules under which applicants are now operating are substantially the tariffs and rules existing on July 22, 1919, when this Commission's control under the Food Warehousemen Act became effective. During the period of the war and between the dates of September 1, 1918, and February 22, 1919, the United States Food Administration exercised a measure of control over the cold storage business and established rules and regulations intended to aid in the efficient production, distribution, and conservation of food products. The Food Administration also fixed *maxima* storage rates. It is to be noted, however, that there was no exclusive and definite rate fixing by the Food Administration and that the storage companies under its control were free to charge rates lower than the *maxima* established by the federal government. In the case of the storage companies, applicants in this proceeding, the rates in effect prior to the United States

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Food Administration's control had been lower than the *maxima* permitted by the administration. Applicants, however, took advantage of the *maxima* and substantially raised all of their rates to conform to the highest permitted rates.

Between February 22, 1919 (when the Food Administration's control terminated), and July 22, 1919 (when this Commission's control began), there was an interim during which certain adjustments and changes in rates and regulations were made by applicants, these changes generally tending towards an increase in charges. During this period, also, applicants discontinued the so-called season rates, this form of rates having been criticised and in a measure condemned by the Food Administration as opposed to the principles which should govern in the matter of storage of foodstuffs during the crisis of the war.

These applications sought authority to further increase cold storage rates from 20 to 60 per cent, and permission to make the increases was denied.

The defendants introduced during the proceeding five exhibits dealing entirely with the operations of cold storage plants while under federal control, the object of these exhibits being to show that prior to July 22, 1919, the date upon which chapter 213, Statutes 1919, Food Warehousemen Act, became effective, there was no jurisdiction by the Railroad Commission of the State of California over the charges assessed. Under date July 3, 1919, this Commission addressed a circular letter to all food warehousemen, calling attention to the new statute and directing that schedules be filed on or before July 22, 1919. These defendants filed, to become effective July 22, 1919, tariff containing the rates, charges, rules and regulations to be assessed in compliance with the law, until changed by proper authority. This tariff contains no season rate for the storage of apples, the rate for 300 boxes or more being 9 cents per box for the first month, and 5 cents per box for each succeeding month. This is the charge paid by complainant and which it contends is unlawful and excessive, and that the rate of 25 cents per box for the season should have been carried in the original tariff. Defendants did have in effect in July, 1918, certain season rates covering the storage of apples, which rates remained in force until February 22, 1919, at which time the United States Food Administration's general rules were canceled. With the relinquishment of the Food Administration's control, in February, 1919, the food warehouses were under no jurisdiction as to charges and were permitted to assess any rate desired until July 22, 1919, when the Food Warehousemen Act became effective, which fact was admitted by complainant's principal witness.

From the foregoing, I believe it is clear that defendants did not violate the law by failing to publish a season rate for the cold storage of apples or other commodities, they having filed lawful tariff on July 22, 1919, in compliance with the law and, having charged uniform rates to all stores, I am forced to conclude that no discriminatory or otherwise unlawful charges were collected by the defendant.

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With reference to the season rates, the following from Decision No. 9139, *supra*, is pertinent:

> I am satisfied that season rates are discriminatory and unfair and that they have a tendency, to say the least, to encourage speculation in foodstuffs.
>
> * * * * * * *
>
> The United States Food Administration, during the war, investigated quite exhaustively the matter of season rates for storing. It is realized that during the stress of the war period considerations governed which have not the same force in normal times. But it seems to me that some of the reasons given by the Food Administration in objecting to season rates are as good now as they were then. The Administration came to the following conclusions:
>
> Season rates must be considered unfair and inequitable, because they do not represent accurate and reasonable compensation for services rendered.
>
> The costs of conducting the cold storage business have exact reference to a small unit of time, such as a month, rather than a maximum period, such as a season. For instance, the principal items involved are rent, interest, depreciation, labor, etc., all figured on a monthly basis. Season rates must be regarded as discriminatory.
>
> It has been customary, on season goods, to add the storage cost to the price of the goods, and to give the benefit of the unexpired season storage to the purchaser, regardless of whether the goods were to be carried for the season, or immediately withdrawn. This eventually added to the cost of the product to the consumer.
>
> Undoubtedly the season rate practice leads to undue length of time in carrying merchandise, which might be interpreted as "hoarding" or lending itself to speculative practices.
>
> I recommend that season rates be permanently abolished and that the regular monthly unit rate should apply for all classes of merchandise.

The facts as disclosed by the testimony do not in any sense warrant the charge that defendants have violated section 12 of the Food Warehousemen Act by the establishment of uniform rates at Los Angeles. As to the charge of violating section 19 of the Public Utilities Act, the testimony shows that the discriminations alleged were as between localities, such as San Francisco and Watsonville on the one hand, and Los Angeles on the other. Since neither of these defendants operates cold storage plants at either of the competitive points, they may not be held responsible for the difference in rates.

The complaint should be dismissed.

ORDER.

Rivers Brothers Company, Incorporated, having filed a complaint against Los Angeles Ice and Cold Storage Company and Terminal Refrigerating Company, charging violations of certain sections of the Food Warehousemen Act and the Public Utilities Act, hearings having been held thereon, and the Commission being of opinion that the charges have not been sustained;

It is hereby ordered, that the complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this second day of July, 1921.

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DECISION NO. 9205.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING THE ISSUANCE OF BONDS, THE EXECUTION OF A MORTGAGE OR DEED OF TRUST TO SECURE THE SAME, AND THE EXECUTION AND DELIVERY OF TEMPORARY CERTIFICATES TO BE THEREAFTER EXCHANGED FOR SAID BONDS.

Application No. 6574.

Decided July 2, 1921.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission having on June 30, 1921, by Decision No. 9190, authorized The California-Oregon Power Company to execute a mortgage or deed of trust substantially in the same form as the revised copy filed with the Commission in this proceeding on June 28, 1921, and The California-Oregon Power Company desiring to make certain changes in said revised copy and having filed on July 2, 1921, with the Commission a copy of the proposed changes, and the Commission having considered said changes and being of the opinion that applicant should be permitted to make the proposed changes; now, therefore;

It is hereby ordered, that Decision No. 9190, dated June 30, 1921, be and it is hereby modified so as to permit the California-Oregon Power Company to modify and incorporate in the mortgage or deed of trust which it is authorized to execute by the authority granted in Decision No. 9190, dated June 30, 1921, the changes filed with the Commission on July 2, 1921.

It is hereby further ordered, that the authority granted in Decision No. 9190, dated June 30, 1921, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this second day of July, 1921.

DECISION NO. 9217.

IN THE MATTER OF THE APPLICATION OF SUISUN AND GREEN VALLEY TELEPHONE COMPANY, A CORPORATION, FOR AUTHORITY AND PERMISSION TO ISSUE AND SELL ONE HUNDRED THIRTY SHARES OF THE CAPITAL STOCK OF SAID CORPORATION.

Application No. 6902.

Decided July 12, 1921.

F. A. Chadbourne and *C. E. Roberts*, for Applicant.

BRUNDIGE, *Commissioner.*

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OPINION.

Suisun and Green Valley Telephone Company asks permission to issue and sell at par 130 shares ($6,500) of its common capital stock.

Applicant was incorporated on July 18, 1903, and is at present operating a farmers' telephone line in and about Suisun, Cordelia and Green Valley in Solano County, California, reporting 125 subscribers on December 31, 1920. Of the authorized capital stock, of 200 shares, 70 shares of the par value of $50 each are at present outstanding.

The company heretofore has filed with the Commission in connection with Application No. 5547—a rate proceeding that is now pending—a statement in which it estimates that approximately $11,189 must be expended for improvements, additions and betterments in order to insure satisfactory service. The testimony of F. A. Chadbourne shows that on account of a reduction in the cost of materials, supplies and labor and on account of making some minor changes in the plans as originally filed, the issue and sale of the 130 shares of stock should provide sufficient funds to finance the proposed capital expenditures. His testimony further shows that all of the 130 shares have been subscribed or will be subscribed for by the company's present stockholders.

I herewith submit the following form of order:

ORDER.

Suisun and Green Valley Telephone Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required for the purpose or purposes specified in this order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Suisun and Green Valley Telephone Company be and it is hereby authorized to issue and sell at par 130 shares ($6,500) of its common capital stock.

The authority herein granted is subject to the following conditions:

1. The proceeds from the sale of the stock shall be used to finance in whole or in part the proposed capital expenditures described in the statement filed in Application No. 5547 as modified and referred to in the preceding opinion.

2. Suisun and Green Valley Telephone Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the

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Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted to issue stock shall apply only to such stock as may be issued and sold on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of July, 1921.

DECISION No. 9220.

IN THE MATTER OF THE APPLICATION OF GOLDEN EAGLE-BARKER STAGE FOR PERMISSION TO INCREASE PASSENGER FARES BETWEEN SACRAMENTO AND LINCOLN, CALIFORNIA.

Application No. 6470.

Decided July 12, 1921.

AUTO STAGES—SALARIES—DEPRECIATION.—In denying application to increase fares, the Commission held that $400 a month as salaries of officials while the payroll of drivers is only $720 a month is excessive. Also that 25 per cent depreciation on old equipment is excessive.

J. B. Gibson, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding Sam Aronson and Joseph Palace, copartners, operating under the fictitious name of the Golden Eagle-Barker Stage, conducting automotive passenger stage service between Sacramento and Lincoln, via Roseville, petitioned the Railroad Commission to increase passenger fares between Lincoln and Roseville from 35 cents to 45 cents, an increase approximating 30 per cent; between Roseville and Sacramento from 50 cents to 65 cents, an increase approximating 30 per cent; and between Lincoln and Sacramento from 80 cents to $1.10, an increase of approximately 37½ per cent.

A public hearing was held before Examiner Satterwhite at Sacramento, February 11, 1921, and the matter is now ready for decision.

Prior to August 7, 1920, the Golden Eagle-Barker Stage operated only between Sacramento and Roseville. On August 7, 1920, the applicants, Aronson and Palace, acquired by transfer the operative rights between Roseville and Lincoln and commenced a through service, Sacramento to Lincoln, via Roseville.

The distance from Sacramento to Roseville is 18 miles, and from Roseville to Lincoln 11 miles, a total distance of 29 miles.

The applicants, the evidence showed, are operating two Cadillac eleven-passenger cars valued at $5,500; three Studebakers—two eleven-passenger cars and one seven-passenger car—valued at $6,500, and two

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White stages, nineteen-passenger each, valued at $13,000, or an investment at the time of hearing of $25,000.

Attached to the application and marked "Exhibit B" was a statement purporting to show the revenue for April, May, June, July, August and September, 1920, totaling $11,775.40, an average monthly income of $1,962.57. No segregation is given of the operating expense for this period, but applicant assembled certain general expense items and alleged an average operating cost of $1,920 per month. Among these items is a claimed average monthly expense of $400 for gasoline and oil, $300 for repairs and $300 for tires. This exhibit was later amended to show a segregation of operating expenses and, in addition to the six months named in the original exhibit, the month of October, 1920, was included. The expense for gasoline, according to this amended exhibit, varied from $500 per month in July, to as low as $147.50 in October, or an average for the seven months' period of $320.55. In the original exhibit repairs are given at an average of $300 per month, while in the amended exhibit they fluctuated from $157.35 for the month of June, to $584.15 for the month of July, or an average of $329.40. The original exhibit made no allowance for depreciation; in the amended exhibit depreciation is charged at the rate of $250 per month for the first six months and $500 for the month of October.

Following the hearing a supplement was issued to Exhibit B, giving results for the months of January, February, March and April, 1921. This exhibit showed a total revenue of $13,745.45, and a total operating expense of $13,661.94; in the operating expenses is included $400 per month for salaries of officials, an item not included in any of the previous exhibits, and depreciation is charged at the rate of $800 per month, as against no depreciation carried in the original Exhibit B; $250 per month during April, May, June, July, August and September, 1920; $500 for the month of October, 1920, in amended Exhibit B, and in supplement to Exhibit B, $800 per month during January, February, March and April, 1921. This $800 per month is based on an alleged valuation of $39,000, new equipment having been added since the hearing in February, 1921.

It will be noted that the management is now deducting an allowance of $400 per month as salaries for officials, while the pay roll of all the drivers amounts to but $720 per month. This management expense item appears to the Commission to be excessive and unreasonable. The amount carried in expenses for depreciation, based on 25 per cent of the claimed value of the automobiles in the service, is also excessive, for the evidence shows that one of the Cadillac 11-passenger machines

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is a 1912 model and the other a 1913 model, indicating that the cars do not depreciate at the rate of 25 per cent per annum.

The testimony of applicant Aronson was to the effect that the operations of this automobile line were commenced several years ago with one vehicle and that the valuable equipment now owned was practically all created out of earnings.

The exhibits and statements furnished to the Commission and the testimony given at the hearing with reference to the revenue and expenses have not been made complete, particularly as to the expenses, which were more or less arbitrarily estimated and segregated from applicant's other business activities. The estimated increase in earnings under the proposed rates would approximate $5,000 per annum without giving consideration to a possible normal increase in the volume of the business.

The through service had been in effect only a few months when this application was filed and, therefore, the actual results flowing from the service between Sacramento and Lincoln could not be determined. Apparently, the application to increase fares was prompted by reason of the increase in fares made by the Southern Pacific Company on August 26, 1920, for their passenger service between Sacramento and Lincoln.

It is believed that by the reduction of the management expense referred to above, a revisement of the depreciation allowance and taking into consideration the general downward trend of most materials, fuel and labor, that this applicant will be enabled under present rates to meet operating expenses and secure a fair return upon investment.

Applicant should keep a careful record of receipts and expenditures, by months, and be prepared to furnish the Commission with actual and definite data should it become necessary to file a new application in the future.

Under all the circumstances we believe this applicant has not justified the proposed increases, and that the application should be denied.

ORDER.

It is hereby ordered, that the application for increased rates in this proceeding be and the same is hereby denied.

Dated at San Francisco, California, this twelfth day of July, 1921.

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DECISION No. 9222.

IN THE MATTER OF THE APPLICATION OF SANTA ROSA WATER WORKS FOR AN ORDER AUTHORIZING IT TO ISSUE NOTES AND TO SECURE THE SAME BY DEED OF TRUST.

Application No. 6912.
Decided July 12, 1921.

M. L. McDonald, Jr., for Applicant.

BRUNDIGE, *Commissioner.*

OPINION.

Santa Rosa Water Works asks permission to issue $32,000 face value of notes and execute a deed of trust securing the payment of the notes. A copy of the proposed deed of trust is filed in this proceeding and marked Schedule "B."

On September 12, 1912, the Commission by Decision No. 219 (Volume I, Opinions and Orders of the Railroad Commission of California, page 536) authorized applicant to issue promissory notes in the aggregate face value of $48,000 and to secure the payment of the notes by deed of trust. Decision No. 219 contains a general description of applicant's properties and a general statement of the conditions under which applicant is operating. Applicant issued the $48,000 of notes and since their issue has paid $16,000, leaving $32,000 still due. The $32,000 represents the total of applicant's indebtedness on June 1, 1921, other than the usual expenses arising from the operation of its properties.

The record shows that applicant has paid no dividends during the past five years and that its earnings have been adequate to meet its interest payments. I believe that applicant's request should be granted and herewith submit the following form of order:

ORDER.

Santa Rosa Water Works having applied to the Railroad Commission for permission to execute a deed of trust and to issue $32,000 of notes payable one year after date and to bear interest at the rate of 7 per cent per annum, a hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of said notes is reasonably required for the purpose specified in this order and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Santa Rosa Water Works be and it is hereby authorized to execute a deed of trust substantially in the same form as the deed of trust filed in this proceeding and marked Schedule "B," provided that the authority herein granted to execute a deed of trust is for the purpose of this proceeding only, and is granted in so

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far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements, to which said deed of trust may be subject.

It is hereby further ordered, that Santa Rosa Water Works be and it is hereby authorized to issue a note or notes having an aggregate face value of $32,000, payable one year after date and to bear interest at the rate of not exceeding 7 per cent per annum, for the purpose of paying or refunding the $32,000 of notes referred to in this application.

The authority herein granted is subject to the following conditions:

1. Santa Rosa Water Works shall keep such record of the issue and sale of the note or notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will apply only to such note or notes as may be issued on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of July, 1921.

DECISION No. 9224.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA SOUTHERN RAILROAD COMPANY TO ISSUE SECURITIES AND CONSTRUCT GRADE CROSSINGS.

Application No. 5117. Supplemental.
Decided July 12, 1921.

A. E. Warmington, for Applicant.

BRUNDIGE, *Commissioner*.

FIRST SUPPLEMENTAL ORDER.

California Southern Railroad Company has filed with the Railroad Commission a statement and report showing that its line of railway has been extended from Blythe southwesterly, a distance of 7.1 miles, at a cost of $165,415.75, including contractor's profits.

On February 5, 1920, by Decision No. 7104, the Railroad Commission made a preliminary order in this proceeding authorizing applicant to issue $35,000 of its first mortgage bonds, and subject to certain conditions, not exceeding $100,000 of second mortgage bonds and $50,000 of common stock to finance the cost of constructing the extension. The $35,000 of first mortgage bonds have been issued and deposited as

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collateral to secure a $35,000 note issued in payment for rails used in constructing the extension. None of the second mortgage bonds and none of the stock have been issued. The company in its supplemental application asks permission to issue such an amount of second mortgage bonds as at 80 will net an amount equivalent to the cost of the extension.

A hearing has been held on the supplemental application and the Commission is of the opinion that there should be deducted from the total cost of the extension the $35,000 of first mortgage bonds heretofore issued and that applicant may be permitted to issue not exceeding $115,000 of second mortgage bonds and $15,500 of common stock to capitalize the remainder of the construction cost.

It is hereby ordered, that the order in Decision No. 7104, dated February 5, 1920, in so far as it relates to the issue of second mortgage bonds and common stock, be and it is hereby modified so as to permit the issue of not exceeding $115,000 of second mortgage bonds and $15,500 of common stock to finance in part the cost of constructing the line of railway referred to in this application, provided:

That, the authority herein granted will not become effective until applicant has paid the additional fee required by the Public Utilities Act, which additional fee amounts to $15; and provided further:

That, the authority herein granted is in lieu of and not in additon to the authority granted in Decision No. 7104, dated February 5, 1920, in so far as the authority granted in said decision relates to the issue of second mortgage bonds and common stock.

It is hereby further ordered, that the order in Decision No. 7104, dated February 5, 1920, shall remain in full force and effect, except as modified by this first supplemental order.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of July, 1921.

DECISION No. 9227.

IN THE MATTER OF THE APPLICATION OF SKIRVING WAREHOUSE COMPANY, INCORPORATED, FOR AN ORDER AUTHORIZING THE ISSUE OF COMMON AND PREFERRED STOCK.

Application No. 6783.

Decided July 12, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 9140, dated June 24, 1921, authorized Skirving Warehouse Company, Incorporated, to issue and sell $5,000 of preferred stock and $5,000 of common stock to Robert

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Church for a cash consideration of $9,000 and use the proceeds to pay $8,000 of indebtedness and for working capital.

Skirving Warehouse Company, Incorporated, has asked the Railroad Commission to modify its decision No. 9140, dated June 24, 1921, so as to permit the company to use the $9,000 to acquire leases of warehouses at Tarke and Tisdale, having capacities of 100,000 bags and 60,000 bags respectively, said acquisition of leases to carry therewith tangible assets of the warehouses aggregating $2,672.25 and accrued storage secured by grain in the warehouse aggregating $4,300, the total price of said assets and leasehold interests to be $6,972.25. The remainder of the proceeds the company asks permission to use as working capital.

The Commission is of the opinion that applicant's request is a reasonable one and that it should be granted, and it is therefore

Ordered, that Condition "2" of the order in Decision No. 9140, dated June 24, 1921, be and it is hereby modified so as to permit the Skirving Warehouse Company, Incorporated, to use the $9,000 obtained from the sale of $5,000 of preferred stock and $5,000 of common stock to acquire the leasehold interests and assets including storage charges of the warehouses at Tarke and Tisdale referred to in this application. The proceeds not used for the foregoing purposes may be used for working capital.

It is hereby further ordered, that the order in Decision No. 9140, dated June 24, 1921, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this twelfth day of July, 1921.

DECISION NO. 9231.

IN THE MATTER OF THE JOINT APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, AND THE TOWN OF SANTA CLARA, A MUNICIPAL CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE FORMER TO SELL AND CONVEY AND THE LATTER TO PURCHASE AND ACQUIRE THE ELECTRIC PROPERTIES DESCRIBED IN THIS PETITION.

Application No. 6953.

Decided July 15, 1921.

BY THE COMMISSION.

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for authority to sell to the town of Santa Clara, a municipal corporation, a certain electric distribution line located on San Francisco-San Jose road and Gould street, in the town of Santa Clara, and the

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Railroad Commission being of the opinion that the price of $1,000 which has been mutually agreed upon is reasonable and that this is not a matter requiring a public hearing, and good reason appearing therefor;

It is hereby ordered, that Pacific Gas and Electric Company be and it is authorized to sell to the town of Santa Clara in accordance with the terms and provisions of the agreement of sale filed in this proceeding and designated as Exhibit "A" thereof, that certain electric distribution line located on San Francisco-San Jose road and Gould street, in the town of Santa Clara, and more particularly described in said Exhibit "A" and in Exhibit "B."

The authority herein is granted subject to the following conditions and not otherwise:

1. The consideration at which the property herein referred to is authorized to be transferred shall not be urged before this Commission nor any other public body as a measure of the value of said property for any purpose other than the transfer herein authorized.

2. Pacific Gas and Electric Company shall, within sixty days after the execution thereof, file with this Commission a certified copy of the instrument by means of which title to said property is passed.

3. The authority herein granted shall apply only to such transfer of property as is made within sixty days of the date of this order.

Dated at San Francisco, California, this fifteenth day of July, 1921.

DECISION No. 9233.

IN THE MATTER OF THE APPLICATION OF CENTRAL COUNTIES GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ONE HUNDRED FIFTY THOUSAND DOLLARS OF SEVEN PER CENT DEBENTURE BONDS.

Application No. 6827.

Decided July 15, 1921.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 9054 dated June 4, 1921, authorized Central Counties Gas Company to issue and sell for cash at not less than 92 per cent of their face value, and accrued interest, $150,000 of 7 per cent debenture notes, subject among others to the condition that none of the notes be delivered until the Commission by supplemental order has authorized applicant to execute a trust agreement under which the notes may and will be certified and issued.

On July 12, 1921, applicant filed with the Commission a copy of its proposed trust agreement. In the agreement the term "debenture

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bond'' is used instead of the term ''debenture notes,'' which term was used in the original petition in this proceeding.

We are of the opinion that the company should be permitted to issue ''debenture bonds'' in lieu of the ''debenture notes'' referred to in Decision No. 9054, and that the decision should be modified accordingly.

The trust agreement filed July 12, 1921, is in satisfactory form.

It is hereby ordered, that Decision No. 9054, dated June 4, 1921, be and it is hereby modified so as to permit Central Counties Gas Company to issue and sell $150,000 of debenture bonds in lieu of the $150,000 of debenture notes, referred to in said decision.

It is hereby further ordered, that Central Counties Gas Company be and it is hereby authorized to execute a trust agreement substantially in the same form as the trust agreement filed with this Commission on July 12, 1921, provided that the authority herein granted to execute a trust agreement is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said trust agreement as to such other legal requirements to which said agreement may be subject.

It is hereby further ordered, that Decision No. 9054, dated June 4, 1921, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this fifteenth day of July, 1921.

DECISION No. 9238.

IN THE MATTER OF THE APPLICATION OF CITRUS BELT GAS COMPANY TO SELL AND OF SOUTHERN CALIFORNIA GAS COMPANY TO BUY CERTAIN PROPERTY IN THE CITIES OF REDLANDS, COLTON AND SAN BERNARDINO, IN SAN BERNARDINO COUNTY, AND IN THE CITY OF CORONA, IN RIVERSIDE COUNTY, STATE OF CALIFORNIA; OF SOUTHERN CALIFORNIA GAS COMPANY FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISES GRANTED BY SAID CITIES, OR APPLIED FOR; FOR THE APPROVAL OF A CERTAIN CONTRACT ENTERED INTO BETWEEN CITRUS BELT GAS COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY, AS OF DATE JUNE 14, 1921, AND OF THE SOUTHERN CALIFORNIA GAS COMPANY FOR PERMISSION TO ISSUE BONDS PURSUANT TO SAID CONTRACT.

Application No. 6917.
Decided July 15, 1921.

O'Melveney, Milliken and Tuller, by *Sayre Macneil*, and *Paul Fussell*, for Southern California Gas Company.

S. W. McNabb, for Citrus Belt Gas Company.

Wm. Guthrie, for City of San Bernardino.

J. G. Emerson, for City of Corona.

A. E. Brock, Mayor, for City of Redlands.

BRUNDIGE AND LOVELAND, *Commissioners.*

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OPINION.

The Railroad Commission is asked by applicants to make an order authorizing Citrus Belt Gas Company to sell its properties, described in Exhibit "A" filed in this proceeding, to Southern California Gas Company, and to permit Southern California Gas Company to purchase such properties, to issue bonds and to exercise franchise rights, more particularly referred to below. The transfer of the properties is to be made pursuant to the terms and conditions of the agreement of sale, a copy of which is filed in this proceeding and marked Exhibit "A."

Citrus Belt Gas Company was organized in 1911 and operates gas generating plants in San Bernardino, Redlands and Corona. It distributes artificial gas in Redlands, San Bernardino, Colton and Corona.

As of December 31, 1920, the company reports $250,166 of capital stock outstanding. Its interest bearing funded debt consists of $277,000 of bonds. In addition, the company reports $73,200 face value of bonds in its treasury. It appears, however, that part of the $73,200 of bonds have been deposited as collateral to secure the payment of unfunded indebtedness. The company's unfunded indebtedness as of December 31, 1920, is reported to consist of $14,000 of notes payable, $16,360.49 of accounts payable, $7,456.67 of interest accrued and $3,482.69 of taxes accrued.

Citrus Belt Gas Company for 1920 reports 610 consumers in San Bernardino, 592 in Colton, 2345 in Redlands and 484 in Corona, making a total of 4031. For 1919 the company reported 1066 consumers in San Bernardino, 650 in Colton, 2225 in Redlands and 420 in Corona, making a total of 4361, or 330 consumers more in 1919 than in 1920. For 1920 Citrus Belt Gas Company reports total gross operating revenue of $150,220.47, and operating expenses of $173,441.26, resulting in a net operating loss of $23,220.79.

The record in this and other proceedings shows that the generating plants and other properties of Citrus Belt Gas Company are in a poor state of repair and operating condition. During the past few years the company has encountered considerable difficulties in giving satisfactory service and maintaining its credit. As a matter of fact, it has become necessary for the city of Redlands to take over the operation of the company's plant and system in Redlands in order that satisfactory service might be given to the consumers residing in Redlands.

Southern California Gas Company operates gas distributing systems in San Bernardino and Colton. Its distributing lines do not extend to Redlands or to Corona. A. B. Macbeth, vice president and general manager of Southern California Gas Company, testified that if the company is permitted to purchase the properties of Citrus Belt Gas Company, it will immediately begin to serve the consumers of Citrus

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Belt Gas Company in San Bernardino and Colton with natural gas of about 1100 heat units. The consumers of Citrus Belt Gas Company have heretofore been receiving straight artificial gas of less than 600 heat units.

A. B. Macbeth also testified that it is the intention of the Southern California Gas Company to lay some four or five miles of 6-inch line in order to connect its system with the system of the Citrus Belt Gas Company in Redlands, and that when this is done, Redlands will be supplied with natural gas. The plans of the company as to the character of service in Corona have not been finally passed upon. The company, however, intends to continue the gas service in Corona and to give good service in all of the communities now being served by the Citrus Belt Gas Company.

A detailed description of the properties which Southern California Gas Company asks permission to buy is found in Schedule "A" attached hereto. The record shows that the Citrus Belt Gas Company has agreed to sell all of its properties except an automobile, a desk and chair, to Southern California Gas Company. The purchasing company asks permission to issue in payment for the properties $365,000 face value of its 7 per cent first and refunding gold bonds dated March 1, 1921, and due March 1, 1951, and in addition, make a cash payment of $1,110. The properties are to be transferred free and clear of all encumbrances. It may be that some of the holders of bonds which are now a lien on the Citrus Belt Gas Company properties will refuse to exchange their bonds for Southern California Gas Company bonds. To meet such a situation, if it arises, the purchasing company asks authority to sell part of the $365,000 of bonds and increase the cash payment.

After the transfer of the properties has been effected, necessary adjustments will be made on account of materials and supplies on hand. The purchasing company agrees to acquire the materials and supplies on hand at their market value. For some time past, the city of Redlands has been operating the properties of Citrus Belt Gas Company located in Redlands. The Southern California Gas Company agrees to buy from the city, at the market value, all fuel oil on hand at the time of the transfer of the properties and pay to the city in cash such sum as will reimburse the city for any amount it may then be out on account of the cost of repairing and replacing gas meters within the city limits, according to the sworn statement to be rendered by George Hinckley, provided that the purchasing company shall not be required to pay on account of such meters any sum in excess of $4,500 for repairs and replacements up to June 3, 1921, and in addition thereto the company agrees to pay the cost of such repairs and replacements as are made with its consent.

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Included in the properties which the Southern California Gas Company intends to acquire are franchises granted by the city of Redlands, city of San Bernardino, city of Colton and city of Corona, together with all other franchises, rights and privileges under which the Citrus Belt Gas Company has been operating. Southern California Gas Company, it appears from the record, has applied for new franchises in Redlands and in San Bernardino. The order herein will permit Southern California Gas Company to operate under the present franchises of the Citrus Belt Gas Company. When it has secured new franchises from the city of Redlands and San Bernardino and filed copies of such franchises with the Commission, the Commission will make such further order as it may deem appropriate.

There has been no protest filed against the granting of this application. Wm. Guthrie, city attorney for San Bernardino, consented to the sale of the properties subject to certain reservations. He urged that the Southern California Gas Company file a statement showing what part of the Citrus Belt Gas Company properties will be abandoned and that Southern California Gas Company secure a franchise from the city of San Bernardino. A statement showing what properties will likely be abandoned has been filed with the Commission and the Commission advised that the company has applied for a franchise from the city of San Bernardino.

We herewith submit the following form of order:

ORDER.

The Railroad Commission, having been asked to make an order authorizing the sale and transfer of the properties of Citrus Belt Gas Company, described in Exhibit "A" filed in this proceeding, to Southern California Gas Company, and Southern California Gas Company having applied to the Commission for permission to purchase said properties, to issue not exceeding $365,000 of bonds and to exercise franchise rights, a public hearing having been held and the Commission being of the opinion that this application should be granted subject to the terms and conditions of this order, and that the money, property or labor to be procured or paid for by Southern California Gas Company through the issue of $365,000 of bonds, is reasonably required;

Therefore, applicants are hereby authorized to perform the following acts:

1. Citrus Belt Gas Company may sell its properties described in Schedule "A," attached hereto, to Southern California Gas Company, and Southern California Gas Company may purchase said properties pursuant to the terms and conditions of the agreement filed in this proceeding and marked Exhibit "A," which agreement applicants are

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authorized to execute and perform all acts necessary to carry said agreement into effect.

2. Southern California Gas Company may issue not exceeding $365,000 of its first and refunding mortgage twenty-year 7 per cent gold bonds due March 1, 1951, and deliver said bonds in part payment for the properties which it is herein authorized to purchase; or, it may sell said bonds at not less than 97 per cent of their face value and accrued interest and use the proceeds to pay in part for the said properties.

3. Southern California Gas Company may exercise the rights and privileges granted by the following ordinances:

(*a*) Ordinance No. 407, city of Redlands;

(*b*) Ordinance No. 298, city of San Bernardino;

(*c*) Ordinance No. 195, city of Colton;

(*d*) Ordinance No. 197, city of Colton;

(*e*) Ordinance No. 283, city of Corona;

provided, Southern California Gas Company shall first file with the Railroad Commission a stipulation duly authorized by its board of directors declaring that Southern California Gas Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for said rights and privileges in excess of the amount actually paid to the various grantors as the consideration for the granting of the franchises, which amount shall be set forth in the stipulation, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation has been filed in form satisfactory to the Railroad Commission.

4. Upon the filing of the certified copy of an ordinance of the city of Redlands and an ordinance of the city of San Bernardino, together with a stipulation similar in form to that mentioned in paragraph 3 of this order, the Railroad Commission will declare that public convenience and necessity require, and will require, the exercise by Southern California Gas Company of all rights and privileges granted to it by such ordinances, subject to such terms and conditions as the Railroad Commission may prescribe.

The authority herein granted is subject to further conditions as follows:

(*a*) The consideration paid for the properties of Citrus Belt Gas Company shall not be used as a measure of value of the properties for any purpose other than the transfer herein permitted.

(*b*) Southern California Gas Company shall file with the Commission a verified copy of the deed or deeds under which it secures and holds title to the properties now owned by Citrus Belt Gas Company, such deed or deeds to be filed within 30 days after execution.

(*c*) Southern California Gas Company shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of

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the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(*d*) The authority herein granted to issue bonds will not become effective until Southern California Gas Company has paid the fee prescribed by the Public Utilities Act.

(*e*) The authority herein granted to transfer properties and issue bonds will apply only to such transfer as may be made and to such bonds as may be issued, sold and delivered on or before December 15, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of July, 1921.

SCHEDULE "A."

The properties which Citrus Belt Gas Company is authorized to sell and Southern California Gas Company to purchase by the order in Application No. 6917 are those described in Exhibit "A" filed in Application No. 6917, and consist of the following:

The seller (Citrus Belt Gas Company) agrees to sell and deliver, and the buyer (Southern California Gas Company) agrees to take and pay for, all the real and personal property situate in the counties of San Bernardino and Riverside, State of California, more particularly described as follows, to wit:

Parcel (a)—Redlands.

All those certain lots, pieces and parcels of ground situate in the city of Redlands, county of San Bernardino, State of California, more particularly described as follows:

1. All of lots numbered one (1), two (2), three (3) and four (4), in block lettered "B" according to the recorded map of Peller-Pratt and Kendall's subdivision as the same appears of record in book 5, of maps, at page 22 thereof, in the recorder's office of said county, together with all buildings, improvements and fixtures now located thereon.

2. Beginning thirty (30) feet south of a point nine hundred and eighty-four and five-tenths (984.5) feet west of the northeast corner of the south one-half (S½) of the south one-half (S½) of lot twenty-seven (27) in block seventy-seven (77) of the San Bernardino Rancho; thence east two hundred and ninety-seven and two-tenths (297.2) feet; thence south two hundred and seventy-one and nine-tenths (271.9) feet to Mill Creek Zanja; thence westerly along said Zanja to point south of the point of beginning; thence north two hundred and three and one-half (203½) feet to the point of beginning, containing 1½ acres, more or less; in the city of Redlands, county of San Bernardino, State of California, as per plat recorded in book 7 of maps, page 2, of the records of said county. Together with all buildings, improvements and fixtures now located thereon.

3. Also beginning at a point 687.3 feet west and 30 feet south of the northeast corner of the south half of the south half of lot twenty-seven (27) in block seventy-seven (77) of the eighty (80) acre survey of the Rancho San Bernardino as per map thereof, recorded in book 7, page 2, records of San Bernardino County; thence east 66.8 feet more or less, to west line of Mill street; thence south along said west line 288 feet, more or less, to center line of Mill Creek Zanja; thence west

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along said center line of said Zanja to a point directly south of the point of beginning; thence north 271.9 feet, more or less, to point of beginning. Together with all buildings, improvements and fixtures now located thereon.

Parcel (b)—Colton.

Lots numbered one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15) and sixteen (16), all in block numbered 173, of the town of Colton, according to the plat as shown in book 9 of maps, at page 37 thereof, records of said county. Together with all buildings, improvements and fixtures now located thereon.

Parcel (c)—San Bernardino.

All that certain real property situated in the city of San Bernardino, county of San Bernardino, State of California, and particularly described as follows: All that portion of lot one (1) of block ten (10) of the five-acre survey of the Rancho San Bernardino, according to the map of said ranch on record in the office of the county recorder of San Bernardino County, in book 7 of maps, at page 2 thereof, described as follows: Commencing in the north line of said lot one (1) at the northwest corner of the lands formerly owned by the San Bernardino Artificial Stone and Improvement Company as described in a deed to said San Bernardino Artificial Stone and Improvement Company from one A. Thompson, recorded in book 55 of deeds at page 270 of the records of said San Bernardino County; thence running west along the said north line of said lot, one hundred and fifty (150) feet; thence south three hundred and fifteen (315) feet, more or less, to the north line of the right of way of the Southern California Railway; thence east one hundred and fifty (150) feet; thence north three hundred and fifteen (315) feet, more or less, to the point of beginning.

Together with all buildings, improvements and fixtures now located thereon.

Parcel (d)—Corona.

All that certain real property situated in the city of Corona, county of Riverside, State of California, and more particularly described as follows, to wit:

All that portion of lot four (4) in block seventy-one (71) of the South Riverside Colony Lands, in the city of Corona, county of Riverside, State of California, according to map thereof recorded in the office of the recorder of San Bernardino County, California, in book 9, page 5, of maps, described as follows:

Commencing at the northeast (NE) corner of lot five (5) in said block seventy-one (71); thence running southeasterly along the northwesterly line of said lot four (4) eighty-nine (89) feet and one (1) inch; thence southerly paralleling the westerly line of said lot four (4) one hundred and ninety-four and forty-two hundredths (194.42) feet; thence at right angles westerly eighty-eight (88) feet to the south corner of said lot four (4); thence northerly along the said line of lot four (4) two hundred eight and forty-three hundredths (208.43) feet to point of commencement.

Together with all buildings, improvements and fixtures now located thereon.

Parcel (e)—Franchises.

Those certain franchises, rights and privileges described as follows:

1. REDLANDS. All those certain franchises, rights and privileges granted by the board of trustees of the city of Redlands to the Redlands Gas Company, by ordinance No. 267, and to _____ Edison Company, by ordinance No._____, and to Home Gas and Electric Company, by ordinance No. 407; together with all pipes, pipe lines, connections, meters and other apparatus and appliances installed pursuant to or in connection with said franchises, and each of them.

2. SAN BERNARDINO. All those certain franchises, rights and privileges heretofore granted by the city of San Bernardino to Seth Hartley by ordinance adopted by the board of trustees of said city, November 5, 1904, being ordinance No. 298; together with all pipes, pipe lines, connections, meters and other apparatus and appliances installed pursuant to or in connection with said franchise.

3. COLTON. All rights, privileges and franchises granted by the board of trustees of the city of Colton to George B. Ellis, by ordinance No. 195, as amended by ordinance No. 197; together with all pipes, pipe lines, connections, meters and

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other apparatus and appliances installed pursuant to or in connection with said franchise.

4. CORONA. All rights, privileges and franchises granted by the board of trustees of the city of Corona to P. J. Dubbell, by ordinance No. 283; together with all pipes, pipe lines, connections, meters and other apparatus and appliances installed pursuant to or in connection with said franchise.

5. All franchises to use the public streets and thoroughfares of each and every of the cities hereinbefore in this indenture named, and of laying down pipes and conduits therein and connections therewith so far as may be necessary for introducing into and supplying said cities and their respective inhabitants with gaslight acquired by seller under and by virtue of section 19 of article XI of the constitution of the State of California as it existed prior to October 10, 1911; together with all pipes, pipe lines, connections, meters and other apparatus and appliances installed pursuant to or in connection with said franchises.

6. Any and all other franchises, rights, and privileges not above specifically set forth, granted by any governmental or other public body to the seller, or now owned by it, together with all pipes, pipe lines, connections, meters and other apparatus and appliances installed pursuant to or in connection with any of said franchises.

Parcel (f)—Omnibus Clause.

Seller's gas generating systems, compressor plants and gas distributing systems and mains in and about each of the cities of Redlands, San Bernardino, Corona and Colton, including among other things all mains, pipes, rights of way, licenses and like privileges, furnaces, boilers, purifiers, washers, holders, meters, motors, services, tools, equipment, appliances and property either real or personal used or in connection with said systems.

Parcel (g)—Furniture.

All office furniture now located at any of seller's offices in any of said cities and all automobiles and automobile trucks now owned by seller; excepting therefrom, however, the Hudson automobile, license No. ____, and the office desk and office chair used by the manager of seller.

Parcel (h)—Miscellaneous personal property.

All material and supplies, including oil, now owned by seller.

DECISION No. 9239.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN INCREASE IN AND A GENERAL ADJUSTMENT OF ITS RATES AND CHARGES FOR GAS TO BE SOLD AND DISTRIBUTED BY IT WITHIN THE CITY OF LOS ANGELES AND VARIOUS INCORPORATED AND UNINCORPORATED TERRITORIES IN THE VICINITY OF LOS ANGELES.

Application No. 6338.

Decided July 15, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, this Commission in its Decision No. 9132, in Application No. 6326, authorized Los Angeles Gas and Electric Corporation to charge and collect, in addition to its regular schedules, a charge of 3 cents per thousand cubic feet for gas service rendered, based on meter readings taken on and after August 1, 1921, to reimburse Los Angeles Gas and Electric Corporation for increased cost of oil not accounted for in previous rates; and

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Whereas, Southern California Gas Company, which supplies gas for domestic and commercial purposes in competition with Los Angeles Gas and Electric Corporation, has not earned in the past, and does not under present conditions earn as reasonable a rate of return on this class of service as Los Angeles Gas and Electric Corporation has been authorized to earn due to its scattered territory, and the Commission finding that it would be just and reasonable for Southern California Gas Company to charge and collect, in addition to its regular schedules, a charge of 3 cents per thousand cubic feet sold during the period that the same is authorized on Los Angeles Gas and Electric Corporation's system;

It is hereby ordered, that Southern California Gas Company be and the same is hereby authorized to charge and collect the sum of 3 cents per thousand cubic feet of gas sold in addition to its regular schedules Nos. A–1, A–4, A–5 and A–6, based upon all regular meter readings taken on and after August 1, 1921, and during such time as Los Angeles Gas and Electric Corporation is authorized to charge and collect such additional charge and not thereafter.

The effective date of this order is August 1, 1921.

Dated at San Francisco, California, this fifteenth day of July, 1921.

DECISION No. 9240.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE ITS RATES FOR THE SALE OF ELECTRIC ENERGY.

Application No. 5842.

Decided July 15, 1921.

Frank Karr, for Applicant.

BY THE COMMISSION.

OPINION.

Pacific Electric Railway Company asks authority to increase its rates for the sale of electric energy. This request for an increase is based on the increased cost of electric energy which applicant has been required to pay to Southern California Edison Company, and also due to increases in its other expenses.

Applicant serves some fifty-eight consumers located along its electric railway lines. These consumers can not conveniently be served by other electric utilities and therefore have been served by applicant on account of their location in respect to Pacific Electric Railway Company's power lines. Electric energy is supplied from the Pacific Electric Railway Company's power lines, which, in turn, is purchased by applicant from the Southern California Edison Company. Appli-

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cant's electric operations are secondary to its railway operations and is carried on more for the convenience of its electric consumers rather than for any profit which might be made from the sale of electric service.

Applicant in this matter has not submitted information or data showing the cost of rendering electric service to its consumers, this being impracticable on account of the nature of its operations and relation to its railway operations. The revenue received by applicant for the year ending May 31, 1921, for the sale of 259,479 kilowatt hours of electric energy amounted to $8,550.18.

Applicant requests in its application that this Commission authorize the rates as set forth in its Exhibit "A," but at the hearing in this matter it further requested that this Commission authorize those rates or other rates which in the Commission's opinion would be reasonable. Certain of the rates proposed by applicant do not take into consideration load factor or size of installation which, in the opinion of this Commission, must be considered when fixing electric rates. It appears to this Commission that the present rates now in effect are too low considering the service rendered, and it further appears that the rates now charged by the Southern California Edison Company in their Southern California district are reasonable rates for similar service rendered by applicant.

Applicant furnishes both alternating current and direct current service. The rates now in effect for electric service rendered by the Southern California Edison Company in Southern California district are the rates as set forth in Exhibit "A" of this Commission's Decision No. 8815 (Opinions and Orders of the Railroad Commission of California, Volume 19, page 595).

Reasonable rates to be charged for direct current service are the rates applicable to alternating current service increased by 10 per cent.

ORDER.

Pacific Electric Railway Company having applied to the Railroad Commission for authority to increase its rates and charges for the sale of electric service, a public hearing having been held, the matter submitted and now ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that the rates and charges for electric service now charged by the Pacific Electric Railway Company are unjust and unreasonable and that the rates and charges herein set forth are just and reasonable rates to be charged and collected by Pacific Electric Railway Company for the sale of electric energy.

Basing its order on the foregoing findings of fact, and other findings of fact contained in the opinion which precedes this order;

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It is hereby ordered, that Pacific Electric Railway be and it is authorized to charge and collect for metered alternating current service rendered, based on all regular meter readings taken on or after August 15, 1921, the following schedules of rates designated as Schedules L–1, C–1, P–1, P–2, P–3, P–12 and set forth in Exhibit "A" of the Railroad Commission's Decision No. 8815.

It is hereby further ordered, that Pacific Electric Railway Company be and it is hereby authorized to charge and collect for metered direct current service rendered, based on all regular meter readings taken on or after August 15, 1921, the rates and charges applicable to alternating current service herein authorized increased by 10 per cent.

It is hereby further ordered, that Pacific Electric Railway Company shall file with the Railroad Commission on or before the first day of August, 1921, the schedules of electric rates herein authorized.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of July, 1921.

DECISION NO. 9241.

THE CITY OF BAKERSFIELD, A MUNICIPAL CORPORATION,

vs.

SAN JOAQUIN LIGHT AND POWER CORPORATION, A CORPORATION, AND MIDWAY GAS COMPANY, A CORPORATION.

Case No. 1405.

Decided July 16, 1921.

GAS SERVICE—RATES—CONNECTIONS.—Finding that unsatisfactory conditions of gas service had been remedied and that the rate was the lowest in the state, the Commission dismissed the complaint of the city of Bakersfield against the San Joaquin Light and Power Corporation and the Midway Gas Company.

Wesley P. Grijalva, City Attorney, Bakersfield.

Murray Bourne, for San Joaquin Light and Power Corporation.

Jared How, for Midway Gas Company.

LOVELAND, *Commissioner*.

OPINION.

This is a complaint filed by the city of Bakersfield against the San Joaquin Light and Power Corporation and the Midway Gas Company, alleging that the said corporations have not and do not maintain proper pressure gas in the mains and pipes supplying consumers in the town of Bakersfield; that the meters installed and used by San Joaquin Light and Power Corporation for measuring gas to its consumers are not accurate and that said corporation makes no effort to keep them

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accurate; that said San Joaquin Light and Power Corporation has without reason refused to make gas service connections to bona fide applicants; that the rates charged by said Midway Gas Company and said San Joaquin Light and Power Corporation for furnishing and supplying gas as aforesaid are unjust, unreasonable and excessive. A public hearing was held in Bakersfield on June 11, 1920, and the matter thereupon submitted with exception of that portion of the complaint which involved the matter of rates charged for gas.

Domestic and commercial consumers in the city of Bakersfield are supplied with gas by San Joaquin Light and Power Corporation through a combination of high and low pressure distributing systems operated with district regulators. Gas is delivered to the distributing company in wholesale by the Midway Gas Company, which operates two high pressure transmission lines, bringing natural gas from the Elk Hills field near Taft about forty miles distant.

Mayor Jay A. Hinman of the city of Bakersfield testified to inadequacy and excessive variations of gas pressure which have existed, especially in the eastern parts of the city, and introduced charts from recording pressure gauges showing extreme variations of from three to thirteen inches of pressure. He further testified that during the winter seasons when heavy demands were made upon the gas system the pressure frequently became insufficient for the proper operation of gas appliances and that the wide variations which were experienced caused consumers considerable annoyance and loss of efficiency in their use of gas.

Investigations have been made at frequent intervals by engineers of this Commission in order to determine gas service conditions existing in Bakersfield. It has been found that during past winters inadequate gas pressures have existed in certain portions of the eastern parts of the city. This has resulted from two causes: First, insufficient pressure in the main supply lines of the Midway Gas Company; secondly, inadequate size of mains in the city distribution system.

The first of these conditions has been satisfactorily corrected by the laying of a new 10-inch natural gas transmission line from the Elk Hills by the Midway Gas Company. This provides for the possible delivery of a maximum of 24,000,000 cubic feet of gas per day to Bakersfield at 70 pounds pressure. The second condition of inadequate distribution mains has been remedied by the installation of some additional mains which have recently been laid. San Joaquin Light and Power Corporation filed with the Commission at the time of the hearing a statement of approved construction expenditures providing for the immediate laying of 8786 feet of 4-inch mains and 363 feet of 2-inch mains, so arranged as to reinforce pressures in existing mains and tie in dead ends and provide a circulating system for the gas. This work has been

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completed and appears to be sufficient to prevent the recurrence of future trouble from this source.

Investigation of the records of San Joaquin Light and Power Corporation shows that routine testing of meters is being carried on at a much faster rate than is required by General Order No. 58 of this Commission. It is found that of all meters tested approximately three-fourths of them are under-registering rather than over-registering. High bill complaints have occurred frequently but testimony in this case indicates this to be the result of errors in the reading of meters, for which adjustment is readily made.

Evidence relative to alleged delays on the part of the defendant in making gas main extensions shows that all construction orders for such work must be approved at the head office of the corporation in Fresno before work can be authorized or started. This procedure, which frequently required from one to three weeks, coupled with the previous shortages of pipe and supply existing throughout the state, has at times made it impossible for San Joaquin Light and Power Corporation to make prompt installation of gas mains.

The city of Bakersfield enjoys one of the cheapest gas rates existing in this state, together with the privilege of receiving natural gas of a high quality. Comparison with other communities using natural gas shows the cost to be the lowest in California. This case was submitted in regard to all points except that of alleged excessive rates charged for gas.

Since the submission of this matter, the city of Bakersfield has communicated to the Railroad Commission its desire that the matter of rates and charges for gas service by San Joaquin Light and Power Corporation be dropped.

I therefore recommend the following form of order:

ORDER.

The city of Bakersfield, a municipal corporation, having come before the Railroad Commission alleging unsatisfactory conditions of gas service as supplied by San Joaquin Light and Power Corporation and Midway Gas Company, in the city of Bakersfield, a hearing having been held at which all parties were heard and the matter submitted and being now ready for decision, the Railroad Commission of the State of California hereby finds as a fact that, while certain unsatisfactory gas pressure conditions have previously existed in the city of Bakersfield, these conditions have been remedied and removed by proper and adequate enlargement of facilities and equipment of defendants San Joaquin Light and Power Corporation and Midway Gas Company.

It is hereby ordered, that this case of the *City of Bakersfield* vs. *San Joaquin Light and Power Corporation and Midway Gas Company* be dismissed without prejudice.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixteenth day of July, 1921.

DECISION No. 9242.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR PERMISSION TO SELL CERTAIN OF ITS EQUIPMENT CONSISTING OF ROLLING STOCK AND TO MORTGAGE CERTAIN OF ITS REAL ESTATE.

Application No. 6933.

Decided July 16, 1921.

Read G. Dilworth, for Applicant.

LOVELAND, *Commissioner.*

OPINION.

In this application, as amended at the hearing, San Diego and Arizona Railway Company asks permission to sell some of its equipment, to mortgage certain real estate situate in San Diego County, and to assume certain financial obligations under a lease by the terms of which it will secure the possession and use of certain railway equipment.

San Diego and Arizona Railway Company was organized on or about December 15, 1906, under the laws of the State of California. It operates a line of railway between San Diego and Lakeside, a distance of about 23 miles; a line of railway around the bay of San Diego to the United States government reservation on North Island, a distance of about 21.9 miles; and a line of railway from San Diego to El Centro, in Imperial County, a distance of 148.1 miles.

Applicant reports $7,826,800 of stock outstanding. Of the outstanding stock $3,913.100 is owned by the Southern Pacific Company and $3,913,100 by the J. D. and A. B. Spreckels Securities Company. The remainder of the stock is owned by the directors.

The testimony shows that the Southern Pacific Company has from time to time advanced moneys to applicant to enable it to complete its line of railway. Applicant, during the construction period, has found it necessary to use some of the construction funds to buy equipment. It is now proposed to sell to the trustee under the proposed trust agreement this equipment at its depreciated value, reported at $138,629.37. The equipment consists of five locomotives and two tank cars. The money received from the sale of the equipment will then become available and be used for construction purposes, as originally intended when advances were made by the Southern Pacific Company.

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It appears from the record that applicant is making arrangements to secure the use of additional equipment through assuming some very definite financial obligations under a lease and equipment trust agreement. Negotiations are pending for the sale of not exceeding $750,000 of San Diego and Arizona Railway Company Series "A" equipment trust certificates bearing dividend warrants or interest, at the rate of 6½ per cent per annum, and payable May 1, 1936. These certificates will be issued by a trustee and the proceeds used to pay in part for equipment which will be leased to the San Diego and Arizona Railway Company. The railway company agrees to pay to the trustee or its assigns sufficient rent to enable the trustee or its assigns to discharge the following obligations, when due and payable:

(*a*) An amount equal to the difference between the cost of the trust equipment delivered and the principal amount of trust certificates issued, provided that the aggregate of amount so paid to the trustee shall not be less than 30 per cent of the cost of the trust equipment.

(*b*) All expenses connected with the trust equipment and lease.

(*c*) Any and all taxes, assessments and governmental charges upon the income or property of the trust.

(*d*) Dividend warrants attached to the trust certificates.

(*e*) The principal of the trust certificates upon maturity, such payments to be made in the following amounts:

May 1, 1924	$50,000 00
May 1, 1925	50,000 00
May 1, 1926	50,000 00
May 1, 1927	50,000 00
May 1, 1928	50,000 00
May 1, 1929	50,000 00
May 1, 1930	50,000 00
May 1, 1931	50,000 00
May 1, 1932	50,000 00
May 1, 1933	50,000 00
May 1, 1934	50,000 00
May 1, 1935	100,000 00
May 1, 1936	100,000 00

It occurs to me that applicant is assuming under the lease, obligations which are of the character of evidences of indebtedness, and that the payment of these obligations is secured by a lien on property located within this state. While it is true that applicant will not have title to the equipment, the whole purpose and intent of the lease agreement and the equipment trust agreement is to secure for applicant additional equipment. I believe that this Commission should authorize applicant

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to assume the obligations under the lease agreement. The payment of the equipment trust certificates which will be issued to secure for applicant additional equipment, will be guaranteed by the Southern Pacific Company and the J. D. and A. B. Spreckels Securities Company.

The Commission has not been furnished with a detailed statement of equipment which will be purchased and leased to applicant or with a revised copy of the lease agreement and equipment trust agreement.

The Commission can not make a final order in this matter until a complete description of the equipment which applicant intends to sell has been furnished, nor until a revised copy of the lease and of the equipment trust agreement has been filed with the Commission. The order herein will authorize, in so far as this Commission has jurisdiction, under the provisions of the Public Utilities Act, the sale of equipment trust certificates subject to the conditions set forth in this order.

I herewith submit the following form of order:

ORDER.

San Diego and Arizona Railway Company having applied to the Railroad Commission for permission to sell certain equipment and to mortgage certain real estate and to assume certain obligations under a lease agreement and equipment trust agreement, a public hearing having been held, and the Commission being of the opinion that this application should be granted subject to the conditions of this order;

It is hereby ordered, that San Diego and Arizona Railway Company be and it is hereby authorized to perform the following acts:

1. To assume the obligations under the lease agreement and equipment trust agreement filed in this proceeding relative to payment of not exceeding $750,000 of 6½ per cent equipment trust certificates, the issue of which equipment trust certificates is hereby authorized for the purpose of enabling applicant to secure the use of additional equipment, provided that none of the equipment trust certificates be delivered until the Railroad Commission, by supplemental order, has authorized the execution of an agreement securing payment of the equipment trust certificates.

2. To mortgage part or all of its real property located in San Diego County for the purpose of securing the payment of equipment trust certificates which will be issued to enable applicant to secure possession of additional equipment.

3. To sell at its depreciated value the equipment described in Exhibit "B," filed in this proceeding, for the purpose set forth in this application.

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The authority herein granted is subject to the following conditions:

(*a*) The equipment trust certificates which are herein authorized to be issued shall be sold on a 7 per cent basis or better, and the proceeds expended only for such purposes as the Railroad Commission may hereafter authorize.

(*b*) San Diego and Arizona Railway Company shall keep such record of the issue and sale of the equipment trust certificates herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(*c*) The authority herein granted will not become effective until San Diego and Arizona Railway Company has paid the fee prescribed in the Public Utilities Act.

(*d*) The authority herein granted will apply only to such equipment trust certificates as may have been issued and delivered on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixteenth day of July, 1921.

DECISION No. 9243.

IN THE MATTER OF THE APPLICATION OF MODESTO GAS COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 6972.

Decided July 16, 1921.

Frank A. Cressey, Jr., for Applicant.

BRUNDIGE, *Commissioner*.

OPINION.

Modesto Gas Company asks permission to issue and sell at not less than 80 per cent of their face value and accured interest, $20,000 of its first mortgage 6 per cent bonds due January 1, 1945.

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In Exhibit "B" applicant reports that it has expended for plant extensions, additions and betterments, the sum of $23,611.21. The expenditures have been made for the following purposes:

Gas plant buildings and structures	$1,033 07
Purification apparatus	2,844 57
Boosting and regulating apparatus	500 30
Distribution mains	9,842 20
Services	1,995 34
Meters	2,009 18
General office equipment	2,618 59
General shop equipment	1,547 96
General stable and garage equipment	1,420 00
Total	$23,611 21

Frank A. Cressey, Jr., applicant's president, testified that the company has invested earnings to pay for the foregoing plant extensions, additions and betterments and that no bonds had been issued against the expenditures. Applicant asks permission to use the proceeds obtained from the sale of the $20,000 of bonds to reimburse its treasury on account of earnings expended for plant extensions, additions and betterments.

The testimony of applicant's president shows that even though the company asks permission to reimburse its treasury through the issue of bonds, the company will use all of the proceeds obtained from the sale of its bonds for capital purposes.

Applicant reports $100,000 of stock and $154,000 of bonds outstanding. Its notes outstanding are reported at $1,700. Applicant has no other indebtedness except current bills.

I believe that this application should be granted and herewith submit the following form of order:

ORDER.

Modesto Gas Company having applied to the Railroad Commission for permission to issue $20,000 of bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured by the issue of such bonds is reasonably required for the purpose or purposes specified in this order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Modesto Gas Company be and it is hereby authorized to issue and sell for cash at not less than 80 per cent of their face value, plus accrued interest, $20,000 of its first mortgage 6 per cent bonds due January 1, 1945.

The authority herein granted is subject to further conditions as follows:

1. The proceeds obtained from the sale of the bonds herein authorized shall be used by applicant for the purpose of reimbursing in

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part its treasury, on account of earnings expended for the plant extensions, additions and betterments described in applicant's Exhibit "B" filed in this proceeding, and after such reimbursement, the proceeds shall be used for capital purposes, as defined by the classification of accounts for gas corporations prescribed by the Railroad Commission.

2. Modesto Gas Company shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

4. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixteenth day of July, 1921.

DECISION No. 9244.

IN THE MATTER OF THE APPLICATION OF EMMA H. ROSE, ANNA G. LANE AND HOBART ESTATE COMPANY, A CORPORATION, FOR AN ORDER DIRECTING THE INSTALLATION OF METERS UPON THE SERVICES OF DOMESTIC AND INDUSTRIAL CONSUMERS.

Application No. 5713.

Decided July 16, 1921.

WATER UTILITY—PREFERENTIAL RATES.—Free service in consideration of rights of way is held to constitute a preferential rate and to be unfair to the body of consumers. Right of compensation held to be outside the jurisdiction of the Commission.

FULL RETURN.—Full return on investment would be greater than consumers could reasonably afford to pay and rates fixed to yield maintenance and operating expenses.

R. S. McCurdy, for Applicant.

Chas. P. Snyder, City Attorney, for the citizens and water users and trustees of the City of Angels.

BY THE COMMISSION.

SUPPLEMENTAL OPINION.

In this proceeding Emma H. Rose, Anna G. Lane and Hobart Estate Company, a corporation, owning a public utility water system supplying water for domestic and industrial purposes to the inhabitants of the towns of Angels, Murphys and other small communities in the vicinity in Calaveras County, ask permission to install meters

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on the services of its consumers and that a schedule of metered rates be established which will yield them the same net revenue as heretofore produced by the flat rates in effect.

The application alleges in effect that there is apparently an excessive and wasteful use of water by the consumers on the aforementioned system, attributing same to the unrestricted use obtaining under the present flat rate schedule of charges; that it is desired to completely meter the system, thereby effecting a conservation of the water supply and permitting its utilization in the generation of additional electrical energy in their hydroelectric power plants. Further, applicant does not seek an increase in revenue from the sale of water but asks that a schedule of metered rates be established whereby the charges will be equitably distributed among the consumers according to their actual use of water.

The Commission concluded that a hearing would not be necessary in this proceeding, and accordingly on July 26, 1920, issued its ex parte order (Decision No. 7920) establishing therein a schedule of metered rates to be charged consumers, with the condition imposed that applicants should hold as a trust fund any sum yielded by the metered rates over and above that which would have been produced by the flat rates theretofore in effect.

Subsequent to the decision a petition was filed with the Commission by a number of applicants' consumers, requesting a public hearing in this proceeding in order that they be afforded an opportunity to present certain facts and protests. A public hearing was accordingly granted and held at Angels before Examiner Satterwhite.

Utica Mining Company properties at Angels, the domestic water system involved in the above proceeding, and a hydroelectric power system, of which one plant of 2000-horsepower capacity is located at Murphys and another plant of 750-horsepower capacity is located at Angels are owned and operated by the applicant herein. These all obtain their water supply from applicants' ditch system, which, in turn diverts its supply from the North Fork of the Stanislaus River. Water is also distributed directly from applicants' ditches to certain irrigation users.

Applicant operates all of the above properties as the Utica Mining Company. The ditch system consists of about 35 miles of open ditch and flume, including 5 miles of the natural channel of Angels Creek, which terminates in what is known as the pipe line reservoir, located two miles distant from and at an elevation of about 500 feet above the town of Angels. Thence four pipe lines convey the water for use in the Utica Mine, in the Angels hydroelectric plant and for distribution in the town of Angels and vicinity.

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A field investigation of this domestic water system was made by Mr. H. A. Noble, one of the Commission's hydraulic engineers, and his report shows the estimated cost installed of the distribution system solely and not including any portion of the ditch system to be $33,981; that for the year 1919 the maintenance and operation expenses chargeable to the domestic system totalled $7,082.17 (exclusive of taxes, which were not segregated), that the revenue obtained from water sales under the flat rates in effect totalled $5,176.35. For the years 1917 and 1918 the revenue totalled $6,352.45 and $5,451.05, respectively.

A further consideration of a rate base or of the elements going to make up the annual charges for this utility is unnecessary, since as mentioned above, applicant does not seek an increase in revenue by the installation of meters and the establishment of a meter rate.

Applicant proceeded to install meters in August, 1920, and had completely metered the system by December, 1920. The active services total 262, of which only 32 are for business and industrial use. A comparatively large area of gardens and orchards is irrigated in connection with the domestic services. Applicants filed with the Commission a tabulation of the record of metered use of water by its consumers during the above mentioned period, together with a house survey of the premises served. This was the season of minimum irrigation use, and the large and evidently wasteful use of water recorded for a number of the domestic services was accounted for by the leaky condition of the piping within the consumers' premises.

The testimony submitted by the consumers at the hearing was confined largely to protests that during certain seasons the water in the mains contains large amounts of silt and sediment brought down by the ditch, and therefore considerable water must be drawn off and wasted to obtain clear water for domestic use; also, that under the high pressure at which the water is delivered in the mains the valves on their premises become leaky and frequently wear out. Wherefore it was contended that the installation of meters will result in unreasonable charges because of the recording of said waste of water.

The evidence shows that at certain residences where small settling tanks are provided, the objectionable condition of muddy water is largely overcome, and besides, these tanks serve as a pressure break on the premises. It would appear desirable that facilities for removal of objectionable matter be incorporated as an integral part of this system.

From the evidence some 14 consumers have been supplied free service of water in consideration of various right of way agreements and certain other privileges granted applicants. This amounts to a

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preferential and discriminatory rate granted by the utility to these few consumers against the others on the system, which practice this Commission has found to be unfair, and its policy has been to eliminate such preferential rates and service. Where such a condition exists, the discriminatory rates should be discontinued and all classes of consumers should be charged at the established rates, which are applicable to all alike. If there remains any right of compensation in these particular cases, it is not for this Commission to adjudicate the matter.

Applying the trial meter rates set out in Decision No. 7920 to the tabulation of metered water use, and making allowance for the elimination of a large percentage of the present waste of water through leaky house connections and the irrigation use in the summer months, it is evident that the trial rates, while designed to produce the same annual revenue as the flat rates in effect, would in reality produce a revenue considerably greater than that received through the flat rates.

After a careful consideration of all the evidence, and particularly the facts set out herein, the conclusion is reached that should a rate schedule be established to yield to applicants a full return on the investment in said domestic system the resulting charges to the present consumers would be greater than they could reasonably afford to pay, which fact applicants admit. Therefore the rates set out in the following order have been computed, designed to return approximately the maintenance and operation expenses of the system and to equitably distribute the charges among the various consumers according to their use, and we are of the opinion that the trial rates heretofore established should be rescinded.

ORDER.

Emma H. Rose, Anna G. Lane and Hobart Estate Company, a corporation, having made application in the above entitled proceeding for an order authorizing the installation of meters on its domestic and industrial services and having asked that a schedule of meter rates be established for such service, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that applicants' present rate schedule for domestic and industrial service, in so far as it differs from the rate schedule herein set out, is unjust and unreasonable, and that the rates herein established are just and reasonable rates to be charged their consumers for water;

And basing its order upon the foregoing findings of fact and the other statements of fact which are contained in the opinion which precedes this order;

It is hereby ordered, that Emma H. Rose, Anna G. Lane and Hobart Estate Company, a corporation, be and they are hereby authorized and

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directed to file with this Commission within twenty (20) days of the date of this order the following rates for water delivered to their consumers on the domestic distribution system, said rates to be charged for all service rendered subsequent to August 15, 1921:

RATE SCHEDULE.

Monthly minimum payments for metered service:	
For ⅝-inch meters	$1 50
For ¾-inch meters	1 75
For 1 -inch meters	2 25
For 1½-inch meters	2 75
For 2 -inch meters	3 50
For 2½-inch meters and larger	4 25
Monthly quantity rates:	
From 0 to 1000 cubic feet, per 100 cubic feet	$0 18
From 1000 to 3000 cubic feet, per 100 cubic feet	10
All over 3000 cubic feet, per 100 cubic feet	04
Public use:	
1. For fire hydrants including water used for extinguishing fires—	
Hydrants 2-inch or larger, per month	$0 75
Hydrants less than 2-inch, per month	50
2. Sprinkling roads or streets by city or county measured by tank capacity, per 100 cubic feet	10
3. Public buildings, schoolhouses, including grounds, at regular meter rates.	

It is hereby further ordered, that this order shall supersede the order of this Commission in Decision No. 7920, *supra*, dated July 26, 1920, and said order is hereby rescinded and set aside; provided, however, that applicants shall continue to charge and collect the rates now in effect until same are superseded by the schedule of rates established herein.

Dated at San Francisco, California, this sixteenth day of July, 1921.

DECISION NO. 9245.

IN THE MATTER OF THE APPLICATION OF MAX A. SHIRESOHN TO INCREASE WATER RATES.

Application No. 6406.

Decided July 16, 1921.

Max A. Shiresohn, in propria persona.

M. Nakamura, for Japanese consumers.

BY THE COMMISSION.

OPINION.

Max A. Shiresohn, the applicant herein, owns and operates a public utility pumping plant on his farm situated two miles east of San Gabriel, Los Angeles County, serving water for irrigation to his neighbors. In this application he asks authority to increase the rate charged from $1 per hour to $1.25 per hour, alleging in effect that the

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increased cost of power, labor and supplies has rendered the former rate insufficient to produce a proper revenue.

A public hearing in this matter was held before Examiner Satterwhite in Los Angeles.

Applicant obtains his supply of water from a well equipped with an electrically-driven centrifugal pump which formerly discharged approximately 100 miner's inches against a head of 60 feet. Because of a lowering of the water plane during recent years, the capacity has been reduced to 60 or 70 miner's inches. The water is distributed from a standpipe at the plant through several hundred feet of concrete pipe to the boundaries of applicant's property.

Mr. C. H. Monett, one of the Commission's hydraulic engineers, presented a report covering the results of a field investigation, an appraisal of the property and a study of the cost of maintenance and operation. His appraisal shows an estimated original cost of the system of $8,845 and $128 as a proper replacement annuity, computed by the 6 per cent sinking fund method. This report also recommends the sum of $1,960 as a fair and reasonable estimate of the future annual cost of maintaining and operating this system.

These estimates were not questioned at the hearing and appear fair.

The following is a summary of the annual charges as indicated above:

Return on $8,845 at 8 per cent	$708 00
Replacement annuity	128 00
Maintenance and operation cost	1,960 00
Total estimated annual charges	$2,796 00

The total revenue from this system for the years 1919 and 1920 was respectively $2,157.50 and $2,273.25. This would indicate that applicant is entitled to an increase of revenue.

Based upon the number of hours the plant was operated during the year 1920, the suggested rate of $1.25 per hour would have produced the sum of $2,819. Assuming that the operating period will be approximately the same in 1921 as in 1920, it is seen that the rate of $1.25 per hour is reasonable.

ORDER.

Max A. Shiresohn having applied for authority to increase the rate charged for irrigation water served to his consumers, a public hearing having been held, and the Commission being fully apprised in the premises:

It is hereby found as a fact that the rate now charged by Max A. Shiresohn, in so far as it differs from the rate herein established, is unjust and unreasonable and that the rate herein established is a just and reasonable rate;

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And basing its order on the foregoing finding of fact and upon the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Max A. Shiresohn be and he is hereby authorized to file with the Railroad Commission within twenty (20) days from the date of this order the following rate:

For each hour plant is operated at full capacity in furnishing irrigation water to consumers the charge shall be	$1 25
The minimum charge for any operation of the plant shall be	1 25

The above rate shall become effective for all service rendered subsequent to July 15, 1921.

Dated at San Francisco, California, this sixteenth day of July, 1921.

DECISION No. 9253.

IN THE MATTER OF THE APPLICATION OF FRESNO CANAL AND LAND CORPORATION AND LAGUNA IRRIGATION DISTRICT FOR AUTHORITY TO SELL CERTAIN PROPERTIES OF THE FRESNO CANAL AND LAND CORPORATION TO SAID DISTRICT.

Application No. 7003.

Decided July 22, 1921.

BY THE COMMISSION.

ORDER.

Fresno Canal and Land Corporation asks permission to sell the properties described in Exhibit "A" attached hereto to Laguna Irrigation District. The district has agreed to pay $265,000 for the properties.

In Decision No. 6971, dated May 14, 1921, the Commission authorized Fresno Canal and Land Corporation to sell certain of its properties to the Fresno Irrigation District, for the sum of $1,750,000.

Applicants report that the Laguna Irrigation District has been properly organized and that all of the land which has been served by Fresno Canal and Land Corporation, through the properties which it intends to sell to the Laguna Irrigation District, are included in the Laguna Irrigation District.

The Commission is of the opinion that this is not a matter in which a hearing is necessary and that this application should be granted subject to the conditions of this order; therefore;

It is ordered, that Fresno Canal and Land Corporation be and it is hereby authorized to sell and transfer to Laguna Irrigation District the properties described in Exhibit "A" attached hereto, and said Laguna Irrigation District is hereby authorized to purchase said properties.

The authority herein granted is subject to the following conditions:

1. The authority herein granted does not in any manner whatsoever relieve Fresno Canal and Land Corporation from rendering adequate

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service to consumers connected with, or served by, or through, that portion of its properties, plant and system, which are not being sold to the Laguna Irrigation District.

2. The consideration being paid for the properties described in Exhibit "A" attached hereto, by the Laguna Irrigation District, shall not be urged as a measure of value of the properties herein authorized to be sold, or the properties retained by the Fresno Canal and Land Corporation for any purpose other than the transfer herein permitted.

3. Within thirty days after its execution, Laguna Irrigation District shall file with the Commission a verified copy of the deed under which it has secured and holds title to the properties which it is herein permitted to purchase.

4. Fresno Canal and Land Corporation shall notify the Commission of the date on which it relinquishes control and possession of the properties, such notification to be submitted to the Commission within ten days after control and possession of the properties has been relinquished.

5. The authority herein granted will apply only to such sale and transfer as may be effected on or before December 1, 1921.

Dated at San Francisco, California, this twenty-second day of July, 1921.

EXHIBIT "A."

All those tracts and parcels of land lying and being in the county of Fresno, State of California, and bounded and described as follows, to wit:

1. Commencing at a point on the section line between sections twenty-two (22) and twenty-three (23) in township seventeen (17) south, range twenty-one (21) east, Mount Diablo base and meridian, from which the one-quarter corner common to said sections bears north 1000 feet; thence south 54 degrees, 45 minutes east, 160 feet; thence south 77 degrees, 30 minutes east, 150 feet; thence south 51 degrees, 45 minutes east, 370 feet; thence south 68 degrees, 5 minutes east, 200 feet; thence north 30 degrees, 40 minutes east, 200 feet; thence north 45 degrees, 45 minutes east, 520 feet; thence south 390.3 feet to the center of county road on south bank of Cole Slough; thence following center of road south 60 degrees, 35 minutes west, 1073 feet; thence following center of road north 54 degrees, 47 minutes west, 1000 feet; thence following center of road north 32 degrees, 45 minutes west, 300 feet; thence following center of road north 89 degrees, 48 minutes west, 436.4 feet; thence north 30 feet to the north line of road; thence south 89 degrees, 48 minutes east 400 feet; thence north 75 feet; thence north 45 degrees, 00 minutes east, 100 feet; thence south 71 degrees, 00 minutes east, 182 feet; thence south 57 degrees, 15 minutes east, 180 feet; thence south 39 degrees, 15 minutes east, 70 feet; thence south 74 degrees, 20 minutes east, 158 feet to the point of beginning, containing nineteen (19) acres, more or less.

2. Parcel of land in lot seventeen (17), in section thirty-six (36) township seventeen (17) south, range nineteen (19) east, Mount Diablo base and meridian, commencing at the northeast corner of said lot seventeen (17), thence west along north saide of said lot seventeen (17), 430 feet; thence south 22 degrees, 45 minutes west, 103 feet; thence east 480 feet; thence north 95 feet, to the point of beginning, containing one (1) acre, more or less.

3. All right, title and interest to that portion of lot twenty-seven (27), in section twenty-five (25), township seventeen (17) south, range twenty (20) east, M. D. B. and M., lying south of "E" Canal, containing one-half (½) acre, more or less.

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4. The right, title and interest of the corporation to a parcel of land, one-half (½) acre, more or less, and the buildings located thereon, situate on the south side of the Kings River at what is known as the Zalds Weir, which interest to such land needed for levee purposes is held jointly with the Island Reclamation District, no title having been conveyed to said district.

II.

All the following described canals, ditches and laterals of Fresno Canal and Land Corporation constituting a portion of or used in connection with Fresno Canal and Land Corporation's irrigation system:

1. "A" CANAL: Beginning at a point in the west bank of Teilman Cut near the east line of section twenty-two (22), township seventeen (17) south, range twenty-one (21) east, M. D. B. and M., and running thence in a general westerly direction 3.13 miles to a point in the east bank of "B" Canal, lot twenty-seven (27), section twenty (20), township seventeen (17) south, range twenty-one (21) east, M. D. B. and M., having the following widths, more or less, and approximate lengths of rights of way:

From point of beginning to point of joining Grant Canal for a length of 1500 feet, a width of 90 feet;

From point of joining Grant Canal to Kingston road for a length of 5800 feet, a width of 70 feet;

From Kingston road to departure from Grant Canal for a length of 2870 feet, a width of 90 feet;

From departure of Grant Canal to end at "B" ditch for a length of 6350 feet, a width of 40 feet.

2. MAIN GRANT CANAL: Beginning at a point in the west bank of Teilman Cut near the east line of section twenty-two (22), township seventeen (17) south, range 21 east, M. D. B. and M., and running thence in a general westerly direction 5.75 miles to a point near the northeast corner of lot twenty-six (26), section twenty-five (25), township seventeen (17) south, range twenty (20) east, M. D. B. and M., having the following widths, more or less, and approximate lengths of rights of way:

From point of beginning to the departure from "A" ditch, a length of 9620 feet, a width of 110 feet;

From departure from "A" ditch to point in section 30, township 17 south, range 21 east, M. D. B. and M., for a length of 7345 feet, a width of 150 feet;

From above described point to the end in section 25, township 17 south, range 20 east, M. D. B. and M., for a length of 13,383 feet, a width of 70 feet.

3. "B" CANAL: Beginning at a point in the north bank of Grant Canal on lot 16, section twenty-nine (29), township seventeen (17) south, range twenty-one (21) east, M. D. B. and M., and running thence in a northwesterly direction 7.56 miles to a point in lot 2, section sixteen (16), township seventeen (17) south, range twenty (20) east, M. D. B. and M., having the following widths, more or less, and approximate lengths of rights of way:

From point of beginning to southwest corner of lot 20, section 13, township 17 south, range 20 east, M. D. B. and M., for a length of 17,200 feet, a width of 60 feet;

From above described point to east line of lot 10, in said section 13, for a length of 2930 feet, a width of 50 feet;

From above described point to a point in said lot 10 for a length of 700 feet, a width of 75 feet;

From above described point to the pond in lot 16, section 14, township 17 south, range 20 east, M. D. B. and M., for a length of 1250 feet, a width of 50 feet;

From said pond in lot 16 to the end at Murphy Slough in section 16, for a length of 17,800 feet, a width of 40 feet.

4. "B2" CANAL: Beginning at a point on the west bank of "B" Canal on lot 10, section twenty-nine (29), township seventeen (17) south, range twenty-one (21) east, M. D. B. and M., and running thence in a westerly direction 3.07 miles to a point in the west line of lot 1, section twenty-six (26), township seventeen (17) south, range twenty (20) east, M. D. B. and M., having the following widths, more or less, and approximate lengths of rights of way:

From point of beginning to the end at northwest corner of lot 1, section 26, township 17 south, range 20 east, M. D. B. and M., for a length of 16,200 feet, a width of 40 feet.

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5. "G" CANAL: Beginning at the end of Grant Canal near the northeast corner of lot 26, section twenty-five (25), township seventeen (17) south, range twenty (20) east, M. D. B. and M., and running thence in a general westerly direction 6.02 miles to a point in the east bank of Burrel Canal near the southeast corner of section nineteen (19), township seventeen (17) south, range twenty (20) east, M. D. B. and M., having the following widths, more or less, and approximate lengths of rights of way:

From its head to check gate in lot 6, section 33, township seventeen (17) south, range twenty (20) east, M. D. B. and M., for a length of 21,200 feet, a width of 60 feet;

From said check gate in lot 6, in said section 33, to lot 18 in section 29, township 17 south, range 20 east, M. D. B. and M., for a length of 4030 feet, a width of 40 feet;

From said lot 18 to the end in Burrel ditch in section 19, township 17 south, range 20 east, M. D. B. and M., for a length of 6560 feet, a width of 30 feet.

6. "F" CANAL: Beginning at a point in the north bank of "G" Canal on lot 26, section twenty-six (26), township seventeen (17) south, range twenty (20) east, M. D. B. and M., and running thence in a general northwesterly direction 2.86 miles to a point in the west bank of Turner ditch in lot 9, section twenty-one (21), township seventeen (17) south, range twenty (20) east, M. D. B. and M., having the following widths, more or less, and approximate lengths of rights of way:

From point of beginning to center line of section 26, township 17 south, range 20 east, M. D. B. and M., for a length of 1864 feet, a width of 60 feet;

From above described point to a point in lot 4, section 27, township 17 south, range 20 east, M. D. B. and M., for a length of 3528 feet, a width of 40 feet;

From above point in lot 4 to the Waste Gate in lot 22, section 21, township 17 south, range 20 east, M. D. B. and M., for a length of 7708 feet, a width of 50 feet;

From said Waste Gate to the end at Riverdale ditch in lot 9, in said section 21, for a length of 2310 feet, a width of 40 feet.

7. "E" CANAL: Beginning at the end of Grant Canal near the northeast corner of lot 26, section twenty-five (25), township seventeen (17) south, range twenty (20) east, M. D. B. and M., and running thence in a general southwesterly direction 13 miles, more or less, to a point near the south quarter corner of section thirty-three (33), township seventeen (17) south, range nineteen (19) east, M. D. B. and M., having the following widths, more or less, and approximate lengths of rights of way:

From its point of beginning for a length of 13,945 feet, a width of 75 feet;

From Siphon Ditch headgate to west line of Elm avenue for a length of 9400 feet, a width of 60 feet;

From said Elm avenue to north line of section 5, township 18 south, range 20 east, M. D. B. and M., for a length of 9050 feet, a width of 50 feet;

From said north line of section 5, township 18 south, range 20 east, M. D. B. and M., to west line of section 32, township 17 south, range 20 east, M. D. B. and M., for a length of 4770 feet, a width of 40 feet;

From said west line of said section 32, to south line of lot 16 in section 56, township 17 south, range 19 east, M. D. B. and M., for a length of 7040 feet, a width of 50 feet;

From said lot 16 to north line of lot 18, in section 36, township 17 south, range 19 east, M. D. B. and M., for a length of 890 feet, a width of 70 feet;

From said lot 18 to center of section 35, township 17 south, range 19 east, M. D. B. and M., for a length of 7300 feet, a width of 50 feet;

From said center of section 35, township 17 south, range 19 east, M. D. B. and M., to a gate in lot 30, section 35, township 17 south, range 19 east, M. D. B. and M., for a length of 683 feet, a width of 70 feet;

From said gate to lot 29, in section 35, township 17 south, range 19 east, M. D. B. and M., for a length of 1877 feet, a width of 50 feet;

From said lot 29 to southeast quarter of southeast quarter of section 34, township 17 south, range 19 east, M. D. B. and M., for a length of 2010 feet, a width of 40 feet;

From southeast quarter of southeast quarter of said section 34 to the end near the south quarter corner of section 33, township 17 south, range 19 east, M. D. B. and M., for a length of 10,168 feet, a width of 30 feet.

8. SIPHON CANAL: Beginning at a point in the south bank of "E" Canal on the west line of lot 5, section 2, township 18 south, range 20 east, M. D. B. and M.,

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and running thence in a general southwesterly direction 1.59 miles to a point at the south end of Siphon across Zalda Canal at head of Island Canal near the northeast corner of lot 4, section ten (10), township eighteen (18) south, range twenty (20) east, M. D. B. and M., having the following widths, more or less, and approximate lengths of rights of way:

From point of beginning to levee in lot 27, in section 2, township 18 south, range 20 east, M. D. B. and M., for a length of 3670 feet, a width of 70 feet;

From said levee to Island headgate for a length of 4700 feet, a width of 80 feet.

9. "E" WASTEWAY: Beginning at a point in the south bank of "E" Canal near the north line of lot 17, section thirty-six (36), township seventeen (17) south, range nineteen (19) east, M. D. B. and M., and running thence in a general southwesterly direction 2.31 miles to a point at the south end of a gate constructed through the Reclamation Levee near the southeast corner of lot 1, section eleven (11), township eighteen (18) south, range nineteen (19) east, M. D. B. and M., having the following widths, more or less, and approximate lengths of rights of way:

From point of beginning to levee in section 11, township 18 south, range 19 east, M. D. B. and M., for a length of 12,185 feet, a width of 45 feet.

10. NORTH ISLAND CANAL: Beginning at the end of Siphon Canal which is the south bank of Zalda Canal near the northeast corner of lot 4, section ten (10), township eighteen (18) south, range twenty (20) east, M. D. B. and M., and running thence in a general southwesterly direction 8.75 miles to a point at the west end of a gate constructed through reclamation levee near the east line of lot 10, section twenty-seven (27), township eighteen (18) south, range nineteen (19) east, M. D. B. and M., having the following widths, more or less, and approximate lengths of rights of way:

From the point of beginning to divide with South Island Canal for a length of 1438 feet, a width of 170 feet;

From said point of division to east line of lot 7, section 9, township 18 south, range 20 east, M. D. B. and M., for a length of 5470 feet, a width of 130 feet;

From said line of lot 7 to lot 2, in section 17, township 18 south, range 20 east, M. D. B. and M., for a length of 6347 feet, a width of 90 feet;

From said lot 2 to north quarter corner of section 24, township 18 south, range 19 east, M. D. B. and M., for a length of 16,062 feet, a width of 80 feet;

From said quarter corner to lot 8 in section 27, township 18 south, range 19 east, M. D. B. and M., for a length of 15,776 feet, a width of 40 feet;

From said lot 8 to end at levee for a length of 986 feet, a width of 60 feet.

11. SOUTH ISLAND CANAL: Beginning at a point in the south bank of North Island Canal near the south line of lot 4, section ten (10), township eighteen (18) south, range twenty (20) east, M. D. B. and M., and running thence in a general southwesterly direction 4.06 miles to a point on the east bank of North Island Canal on lot 15, section eighteen (18), township eighteen (18) south, range twenty (20) east, M. D. B. and M., having the following widths, more or less, and approximate lengths of rights of way:

From point of beginning to the center line of lot 11, section 17, township 18 south, range 20 east, M. D. B. and M., for a length of 16,281 feet, a width of 80 feet;

From said center line of lot 11 to west line of section 17, township 18 south, range 20 east, M. D. B. and M., for a length of 2159 feet, a width of 100 feet;

From said west line of section 17 to the junction with North Island Canal, for a length of 2990 feet, a width of 80 feet.

12. "G" DITCH EXTENSION: Beginning in the south bank of "G" Ditch in lot eight (8), section twenty-nine (29), township seventeen (17) south, range (20) east, M. D. B. and M., thence in a southerly and southwesterly direction 2¾ miles, more or less, to the north bank of "E" Canal in lot eighteen (18), section thirty-six (36), township seventeen (17) south, range nineteen (19) east; having the following widths, more or less, and approximate lengths of rights of way;

From its point of beginning to the end in lot 18, section 36, township 17 south, range 19 east, M. D. B. and M., for a length of 13,850 feet, a width of 50 feet.

13. SUMMIT LAKE DITCH: Beginning in the south bank of Beall Slough in lot eight (8), section eleven (11), township eighteen (18) south, range nineteen (19) east, M. D. B. and M., thence in a southwesterly direction 1½ miles, more or less, to the southwest corner of lot 16, section ten (10), township eighteen (18)

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south, range nineteen (19) east; having the following widths, more or less, and approximate lengths of rights of way:

From point of beginning to the end in section 10, township 18 south, range 19 east, M. D. B. and M., for a length of 7920 feet, a width of 40 feet.

The above canals are more specifically delineated on a map filed in the county recorder's office of Fresno County, in book ____ of miscellaneous maps at page ____, and in the county recorder's office of Kings County in book ____ of miscellaneous maps at page ____.

III.

Four (4) shares of stock in the Laton Telephone Company, being certificate No. 1, dated June 7, 1917, duly endorsed by the corporation.

Also a certain telephone line commencing on the east line of the townsite of Laton, thence east about one-half (½) mile to the Reynolds Weir.

Also a telephone line commencing at the southwest corner of section thirty-six (36), township seventeen (17) south, range twenty (20) east, M. D. B. and M., and extending southerly about two (2) miles to the Zalda Weir.

IV.

Also, the entire irrigation system of the Fresno Canal and Land Corporation situate within the boundaries of the Laguna Irrigation District, including in addition to the foregoing tracts and parcels of land, canals, ditches and laterals, telephone stock, all other tracts and parcels of land, canals, ditches and laterals together with the dams, headgates, weirs, flumes, aqueducts, structures, drops, checks, rights of way, water rights, rights to the use of water, privileges, franchises and easements, options and rights and property and rights secured and to be secured thereunder, tools, books, records and maps and other property and rights of the Fresno Canal and Land Corporation, real, personal or mixed, tangible or intangible, corporeal or incorporeal, wherever located as appurtenant to its irrigation system, so within the Laguna Irrigation District, exclusive, however, of the sale of certain parts and portions of the property and system of the Fresno Canal and Land Corporation to the Fresno Irrigation District, also subject to the following exceptions, to wit:

1. The right of the Murphy Slough Association, comprising the Riverdale Ditch Company, Turner Ditch Company, Liberty Mill Race Ditch Company and the Reed Ditch Company, to five-twelfths (5/12) interest, and of the Liberty Canal and Irrigation as to one-sixth (1/6) interest in those certain works situate on Kings River, and commonly known as Reynolds Cut Weir, the Murphy Slough Weir and the Wasteway Gate; provided, however, that such Murphy Slough Association and such Liberty Canal Company shall bear their proportionate interest as above expressed of the maintenance and operation of such weirs and gates, including the reconstruction and repair of same whenever necessary and when called upon by said Laguna Irrigation District; provided, however, that right shall be maintained in said Murphy Slough Association and said Liberty Canal and Irrigation Company for ingress and egress to such works, and to the records maintained with the relation to the waters flowing therefrom, and in relation to the division thereof as between themselves and said Laguna Irrigation District.

2. All moneys on hand or on deposit, all notes and accounts receivable including water rentals up to and including the year 1920, and the amount repayable to the first party by said second party for the cost and maintenance and operation of its canal system, in accordance with the agreement of the twenty-fifth of February, 1921, and the agreement of the same date supplementary thereto, heretofore entered into between the parties hereto, and the right or franchise of Fresno Canal and Land Corporation to be a corporation.

3. Subject to the right on the part of Fresno Canal and Land Corporation and Consolidated Canal Company and Laguna Lands, a corporation, to inspect and use in so far as the same may be necessary and appropriate, any of the books, maps and records herein referred to in so far as they may relate to or be connected with any of the properties or any portion thereof owned or possessed by the Consolidated Canal Company, Laguna Lands, or retained by the said Fresno Canal and Land Corporation as a portion of its irrigation system.

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DECISION NO. 9254.

IN THE MATTER OF THE APPLICATION OF PORT COSTA WATER COMPANY, A CORPORATION, FOR PERMISSION TO INCREASE THE RATES FOR WATER FURNISHED BY SAID CORPORATION.

Application No. 4965.

Decided July 23, 1921.

WATER UTILITY—DISCRIMINATION—MUNICIPAL CUSTOMER.—Rehearing by the town of Martinez denied, the Commission holding that a municipal customer occupies the same status as other large wholesale users and that rate schedules were established to do away with preferential and discriminatory charges.

A. E. Shaw, for Applicant.

A. F. Bray, for the Town of Martinez.

MARTIN, *Commissioner*.

OPINION ON PETITION FOR REHEARING.

This Commission on October 15, 1920, rendered its opinion and order in the above entitled proceeding (Decision No. 8238) establishing therein a schedule of rates to be charged by applicant for water furnished its consumers. On November 4, 1920, the town of Martinez, one of the consumers, filed a petition for rehearing.

Said petition for rehearing alleges in effect that the town of Martinez, a municipal corporation, owns and operates its own water distribution system, purchases its water wholesale from applicant and retails it to the inhabitants of said town; that the rates established in above mentioned decision result in an increased charge to the town of Martinez of approximately 40 per cent; that said town is required to pay applicant the same rates as other large consumers on the system and no consideration was given the fact that it operates a municipally owned distribution system. It is further alleged that said increase in rates which was filed with the Commission and became effective on October 18, 1920, works an injustice on the town of Martinez, since its water rates to its own consumers are fixed by ordinance and could not be changed to meet this increase prior to November 1, 1920. Wherefore, petitioner alleges said increase in the rates to the town of Martinez is excessive, unfair and unjust and the request is made that the rates established in aforementioned decision be set aside in so far as they affect the town of Martinez and that new and equitable rates be fixed for this service.

Hearing for argument and evidence on the question of rehearing in the above entitled proceeding was held at San Francisco on March 1, 1921. Protestant went on record at this hearing to the effect that it was not in a position to attack the findings of the Commission with

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reference to the rate base and hence its testimony was confined in general to the issues aforementioned.

The evidence shows that the rates heretofore in effect include a number of special and discriminatory rates to industries and certain other large users, including the above mentioned protestant, and the rate schedule established by this Commission in its Decision No. 8238 was designed to eliminate all discrimination existing by reason of these special rates, to uniformly distribute the charges among the various consumers, according to use, and to yield to applicant the necessary annual revenue.

It appears after four months' trial that said rate schedule is operating practically as was designed, no evidence being introduced to the contrary.

The record of water use for the year 1919 shows that 14 large consumers, including among them the town of Martinez, and enjoying the special low rates mentioned, purchased 89 per cent of the total amount of water consumed on the system and paid only 64 per cent of the gross revenue of the system. The town of Martinez was the second largest consumer, purchasing an average of 1¼ million cubic feet of water monthly or about 24.6 per cent of the total consumption.

Bills rendered the town of Martinez for the past five months' use of water were introduced in evidence. These show that for September, 1920, under the old rates, the average charge for 100 cubic feet was 11.1 cents and for the four succeeding months, under the rates at present in effect, the average per 100 cubic feet amounted to 16.68 cents, an increase of 5.58 cents.

Attention is directed to the fact that this average charge is only 0.18 cents increase over the lowest quantity rate of 16.5 cents per 100 cubic feet as fixed by Decision No. 8238.

By comparison with the present charges in effect for domestic use on the system of the Port Costa Water Company, applicant herein, it appears that the above increased rate for Martinez is not excessive or unreasonable. For use of water less than 535 cubic feet monthly the charge to domestic consumers on applicant's system is smaller, but it becomes considerably greater as the use increases above 535 cubic feet, even though a higher minimum is charged in Martinez.

After a review of the evidence upon which this Commission based its Decision No. 8238 establishing the rate schedule in effect, and from a careful consideration of all the evidence submitted in the argument for rehearing and in particular the facts set out herein, the conclusion is reached that there is no convincing reason why the rate schedule as established should be revised in any particular or that the town of Martinez should be granted a rate different from other wholesale consumers of water.

It is therefore recommended that the petition for rehearing be denied.

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ORDER ON PETITION FOR REHEARING.

The Railroad Commission, having heard the application of the Port Costa Water Company for an increase in rates, and having rendered its Decision No. 8238 establishing a schedule of rates in due form, and the town of Martinez having subsequently filed a petition for a rehearing of this matter, and public hearing having been held and argument heard, and the Commission being fully advised in the premises:

It is hereby found as a fact, that no sufficient reason has been presented whereby this Commission is justified in granting a rehearing herein.

And basing its order upon the above finding of fact and the further statements of fact contained in the opinion preceding this order;

It is hereby ordered, that the petition of the town of Martinez for a rehearing in the above entitled application be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of July, 1921.

DECISION No. 9255.

IN THE MATTER OF THE APPLICATION OF THE REEDLEY TELEPHONE COMPANY FOR AUTHORITY TO ISSUE BONDS AND FOR AUTHORITY TO INCREASE ITS RATES FOR TELEPHONE SERVICE.

Application No. 6287.

Decided July 23, 1921.

Ernest Irwin, for Applicant.

BY THE COMMISSION.

OPINION.

The Reedley Telephone Company, hereinafter referred to as the company, in Application No. 6287 asks the Commission to authorize it to issue such an amount of bonds as will net it $15,000 and also asks permission to increase its present rates for telephone service. The money secured by the bond issue, the company states, is to be used to pay existing debts which were incurred in making extensions to its plant, to reimburse its treasury and to finance further new construction. The increase in rates, it alleges, is necessary in order that it may secure a fair return upon its investment.

The rates in effect at present are those authorized by the Commission in Decision No. 7027, dated January 20, 1920, and modified by Decision No. 7830, dated July 9, 1920. The latter decision discontinued the 25

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cent discount for prompt payment of bills, but did not change the rates. The present rate schedule is as follows:

	Per month	
	Business	Residence
Main line, wall	$2 75	$2 25
Two-party line, wall	2 25	2 00
Four-party line, wall	----	1 75
Six-party line, wall	----	1 50
Suburban, wall	2 25	2 00
*Extensions	1 50	1 00
*Farmers' lines	60	40

*Desk telephones are 25 cents additional per month on all classes of service except those marked with an asterisk.

A hearing was held in Reedley. The company did not file any exhibits at the hearing, since the application itself sets forth the net additions to fixed capital since September 1, 1919, the date of the Commission's appraisal of applicant's property in Application No. 4858; the revenue and expenses from January 1, 1920, to September 1, 1920, as shown by the company's books and the estimated revenue and expenses for one year under present and proposed rates.

The Commission's engineers presented a report which showed the investment in fixed capital as found by taking the sum of the net additions to plant since September 1, 1918, and the appraisal which they had made of the company's property as of that date; the revenue and expenses for the period from December 1, 1919, to November 30, 1920, and an estimate of the revenue and expenses for a period of one year under present rates.

From an analysis of the figures presented by the company and by our engineers it is our opinion that $36,500 is a fair value for this property for rate-making purposes, and suggest this amount as the proper rate base.

The net income exclusive of interest deductions, for the year ending November 30, 1920, amounted to $1,840. The gross revenue collected during this period amounted to $15,767, and the expenses for the same period, including taxes, uncollectible revenue and a reserve for accrued depreciation, amounted to $13,927. It is apparent, therefore, that a sufficient return has not been made upon the investment during the period analyzed.

A careful estimate of revenues and expenses for one year indicates that the company may reasonably expect a gross revenue of $17,100 for this period under present rates, with an increase in business amounting to 5 per cent. The expenses for the same period with present rates will be approximately $14,750, leaving a net income for the year of $2,350. This amount would be a return of approximately 6½ per cent upon the rate base suggested above.

The rate structure which we propose should yield, during the next twelve months, a gross revenue of approximately $17,700, while the

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expenses will amount to about $14,800. This, in our opinion, will give the company a fair return upon its investment.

The increase in expenses for the year 1921 over the year 1920 is due to the additional allowance of $700 per annum for depreciation of plant not covered heretofore by the fund and to the increase in taxes. No allowance was made for an increase nor for a decrease in wages of employees in the estimate.

It is recommended that the Commission order the company to offer the following classes of service and authorize the following rates:

	Per month	
	Business	Residence
Main line, wall	$3 00	$2 25
Two-party line, wall	2 50	2 00
Four-party line, wall	----	1 75
Six-party line, wall	----	1 50
Suburban, wall	2 25	2 00
*Extensions	1 00	1 00
†Farmers' lines	00	40

*Desk telephones are 25 cents additional per month on all classes of service except those marked with an asterisk. Grabophones are 50 cents additional per month on all classes of service except farmers' lines.

†The above rates for farmers' line service are based upon a minimum of five subscribers per line. Any number less than five shall pay the proper pro rata to equal the revenue from five subscribers.

All serviees, rules and regulations not covered in this opinion shall remain as provided for in the Commission's Decision No. 2879, decided November 5, 1915, and as modified by the Commission's Decision No. 8146, decided September 24, 1920.

Service and accounting.

Subscribers on the so-called Squaw Valley-Dunlap line complained of the service rendered on their line. This matter has been before the Commission informally on several occasions, and is now being handled as a formal proceeding apart from this application.

The company has recently altered its accounting system to conform to the Commission's Uniform Classification of Accounts for Telephone Companies, as recommended by our engineers and accountants.

Issuance of securities.

In Exhibit "A" applicant reports $9,582.20 of notes outstanding as of November 1, 1920. In addition the company reports other liabilities amounting to $4,136.27.

Applicant asks permission to issue bonds to refund its indebtedness and to reimburse its treasury. It asks authority to issue such an amount of bonds as will net it $15,000.

Applicant proposes to issue 7 per cent twenty-year bonds and sell such bonds at not less than 95 and accrued interest. No arrangements have been made by applicant for the sale of the bonds nor has applicant submitted a deed of trust securing the payment of the bonds.

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This Commission can obviously not make a final order in this proceeding until there has been filed with the Commission for its consideration a proposed mortgage or deed of trust securing the payment of the bonds.

The order herein, in so far as it relates to the issue of bonds, is of a preliminary character and subject to such modification as may become necessary.

The following form of order is recommended:

ORDER.

Reedley Telephone Company having applied for permission to increase its rates for telephone service and to issue bonds and execute a mortgage, a public hearing having been held, and the Commission being of the opinion that the rates authorized and the classes of service prescribed in this order are just and reasonable and that the money, property or labor to be procured by the issue of the bonds herein authorized is reasonably required by applicant and that the expenditures herein permitted are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that applicant is authorized to establish and file with the Commission within thirty (30) days of the date of this order a schedule of rates and services as outlined in the foregoing opinion. Upon approval of the schedule so filed, applicant is authorized to put these rates into effect subject to the following conditions:

A. Adequate and efficient telephone service must be rendered at all times for all classes of service.

B. The depreciation reserve of $900 per annum ordered set aside in the Commission's Decision No. 7027, decided January 12, 1920, shall be increased to $1,600 per annum in monthly installments of $133.33, and applicant shall file with the Commission within thirty days of the date of this order its suggestions for rules governing the functions and use of the depreciation fund and these rules shall thereafter go into effect as approved or modified by the Commission.

It is hereby further ordered, that the Reedley Telephone Company be and is hereby authorized to issue and sell, at not less than 95 per cent of their face value and accrued interest, $15,700 face value of the twenty-year 7 per cent bonds, provided that none of the bonds be delivered until the Commission has authorized applicant to execute a deed of trust securing the payment of the bonds. The Commission will hereafter by supplemental order specify the purposes for which applicant may use the proceeds obtained from the sale of the bonds.

The authority herein granted is subject to further conditions as follows:

1. Reedley Telephone Company shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the

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proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

3. The authority herein granted will apply only to such bonds as may be issued, sold or delivered on or before December 31, 1921.

Dated at San Francisco, California, this twenty-third day of July, 1921.

DECISION No. 9257.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE BOARD OF TRUSTEES OF THE CITY OF SAN MATEO BY ORDINANCE No. 228 ON THE SECOND DAY OF MAY, 1921.

Application No. 6951.
Decided July 23, 1921.

B. F. Rabinowitz, for Applicant.

BRUNDIGE, *Commissioner*.

OPINION.

The Pacific Telephone and Telegraph Company asks the Railroad Commission to declare that public convenience and necessity require the exercise by applicant of the rights and privileges conferred upon it by ordinance No. 228, passed on May 2, 1921, by the board of trustees of the city of San Mateo.

A copy of the ordinance has been filed in this proceeding and is marked applicant's Exhibit "B." In general, the ordinance granted to The Pacific Telephone and Telegraph Company, its successors and assigns, for a term of twenty-five years, gives applicant the right and privilege to do a general telephone and telegraph business within the city of San Mateo and to construct, maintain and operate the necessary telephone and telegraph lines and facilities, all subject to the conditions of the ordinance.

Among other things, the ordinance requires applicant, its successors and assigns, to pay annually during the life of the franchise, to the city of San Mateo, two per cent of the gross annual receipts arising from the use, operation and possession of the franchise and privileges, including that portion of the long distance business credited to the exchange of

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the city of San Mateo. The city of San Mateo is also to have the use, without charge, of certain specified facilities for police and fire alarm purposes.

Applicant reports that it paid $225 for the franchise and privileges covered by ordinance No. 228 to the city of San Mateo, that no other public utility is engaged in the telephone and telegraph business in the city of San Mateo, and that at present it has 1870 subscribers to its telephone service in the city of San Mateo.

I herewith submit the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having asked the Railroad Commission to declare that public convenience and necessity require applicant to exercise the rights and privileges granted to it by the city of San Mateo under ordinance No. 228, passed May 2, 1921, a public hearing having been held, and it appearing to the Railroad Commission that public convenience and necessity require the construction, operation and maintenance of the telephone plant and system referred to in said ordinance and that there are no public utilities of a like character at present operating within the territory involved in this proceeding:

Now, therefore, the Railroad Commission of the State of California hereby declares that public convenience and necessity require, and will require, the exercise by The Pacific Telephone and Telegraph Company of the rights and privileges conferred upon it by ordinance No. 228, passed on May 2, 1921, by the board of trustees of the city of San Mateo, provided that neither applicant, its successors and assigns, will ever claim before the Railroad Commission, or any other public body having jurisdiction, a value for said franchise or privileges covered by said ordinance for rate fixing or any other purpose, in excess of $225, the amount actually paid to the city of San Mateo as a consideration for the granting of said franchise and privileges.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of July, 1921.

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DECISION NO. 9262.

BAY CITIES SALES AND ADVERTISING COMPANY, JOHN H. SUTCLIFFE,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 1412.

Decided July 23, 1921.

TELEPHONE SERVICE—NONPAYMENT OF BILLS—REFUSAL OF SERVICE.—Held that the fact of nonpayment for a prior service does not justify the refusal of future service for which installation charges are tendered and proper guarantees are offered to insure the payment of future bills.

BY THE COMMISSION.

OPINION.

This case arose out of a dispute between the plaintiff, who is conducting an advertising business in the city of San Francisco, and the defendant telephone company, involving an alleged arbitrary discontinuance of telephone service and refusal to accept two subsequent applications for the installation of telephones on plaintiff's premises.

The same issues were presented in a former proceeding between the same parties, Case No. 1228, in which a hearing was had and the matter submitted, but which was dismissed without prejudice because of the absence of plaintiff, Sutcliffe, who entered the service during the war. A further hearing was had in the present proceeding before Examiner Gordon, and it was stipulated that the record of the prior proceeding be deemed a part of the record herein. Additional testimony was received, the matter was submitted and is now ready for decision.

It appears from the evidence herein that telephone service maintained at plaintiff's place of business in San Francisco was discontinued on April 22, 1918, because of nonpayment of bills for previous service. Although there was some conflict of testimony as to whether or not the amount due at that time was in dispute, this dispute referred only to certain items of the bill for service rendered during the month immediately preceding the discontinuance. Plaintiff had not paid for service rendered during several months past, concerning which there was no dispute. It is apparent, therefore, that under the provisions of Rule 6 of the Rules and Regulations of the defendant company this discontinuance of service was justified.

Prior to the discontinuance, plaintiff's service consisted of an individual line measured service at the primary rate of $19.57 per month, entitling the subscriber to 1100 calls, and to additional calls at the rate of 1½ cents per message. In addition to this there was auxiliary line service for which was charged the primary rate of $5 per month

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for each auxiliary line, entitling the subscriber to 80 calls and to additional calls at the rate of 1½ cents each.

The purpose of the auxiliary line was to enable the subscriber to greatly increase the capacity of his telephone service which was an important feature in plaintiff's business of conducting advertising campaigns by telephone. There were wide fluctuations in the number of auxiliary lines used by plaintiff, varying from 5 to as high as 69, dependent upon the prosperity of the advertising business.

The same day that the above described service was discontinued plaintiff made application for an individual business measured service to be installed in an adjoining room to that in which the discontinued service had been maintained. Two days later plaintiff made application for a residence service to be installed in room 440 of the Terminal Hotel in San Francisco which, at that time, was occupied by plaintiff, Sutcliffe. In both instances there was tendered the required advance payment of $3.50 as a service connection charge and a cash guarantee deposit of $5 to insure the payment of monthly bills, as required for this particular kind of service by the rules and regulations of the company adopted pursuant to the Commission's order in Decision No. 2879, rendered on November 5, 1915. The company refused to accept the applications or to install the service, and it is of this refusal that complaint is made.

The telephone company, in its answer, assigned as a reason for refusal that plaintiff had failed to pay for past service and that the new applications were made in an attempt to reestablish service which had been discontinued because of such delinquency. This position is not wholly tenable. The fact of nonpayment for a prior service does not justify the refusal of future service for which installation charges are tendered and proper guarantees are offered to insure the payment of future bills. It is clear, therefore, that the company should accept plaintiff's application for new service, but in so doing is entitled to require a guarantee sufficient to insure the payment of future bills to be incurred under such service. The question therefore resolves itself into what is the proper guarantee for the service in question.

The defendant company contended and submitted evidence showing that plaintiff's prior use of the telephone service for advertising campaigns—involving as it did wide fluctuations in the number of auxiliary lines installed and the number of local messages handled per day—placed an unusual burden upon the facilities of the company and was not the character of service contemplated by the company's rules and regulations. It also appears that the service for which application was refused by defendant immediately after the discontinuance of service was intended to be used by plaintiff for the carrying on of the same kind of business. Under such circumstances it is proper that the

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guarantee which could be required by defendant to insure the payment of future bills should be more than the amount of $5 ordinarily required for the measured business service or residence service for which application was nominally made. The provisions of Rule 3 of defendant's rules and regulations on file with the Commission are applicable. Such rule provides in effect that subscribers who have initially established their credit and later fail to pay their bills shall be required to make a cash deposit to guarantee the payment of charges, the amount of such guarantee being limited to twice the average monthly bill of the subscriber, based upon two months preceding the month in which impairment occurs. The evidence shows that the plaintiff had been a subscriber continuously since January 1, 1915. The average of monthly bills over a period of forty months was approximately $140 per month. For the two months immediately preceding the discontinuance of service, the average monthly bill was $89.81. Therefore, under Rule 3 above referred to, the amount of cash guarantee which defendant should be permitted to require for the reestablishment of service by plaintiff is $179.62. Such guarantee of course applies only to the particular character of service here under discussion, which the evidence shows to be unique and not comparable with the ordinary service contemplated by the defendant's filed schedules and rules and regulations. Any bona fide application by plaintiff for the ordinary service of any of the classes designated in defendant's schedules should be accorded the same consideration as that which defendant is required to give to any member of the public.

ORDER.

Complaint having been made herein for alleged failure of the defendant to receive application for telephone service and to render such service; and hearing having been had thereon and evidence received and the matter submitted, and being now ready for decision;

It is hereby ordered:

1. The defendant herein, The Pacific Telephone and Telegraph Company, is hereby directed to receive the application or applications of plaintiff for telephone service and to render service in accordance therewith, pursuant to the provisions of law and the orders of this Commission and the schedules and rules and regulations of said defendant on file with this Commission.

2. The said defendant, in accepting any application of plaintiff for telephone service of the character heretofore furnished by defendant to plaintiff, namely a service for use in conducting advertising campaigns by telephone, shall be entitled to require from plaintiff, as a guarantee for the payment of future bills, a cash deposit of $179, to be held and disposed of by defendant in accordance with its rules and regulations relating to such deposits.

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3. In event that application shall be made by plaintiff and accepted by defendant and service installed thereunder, in accordance with defendant's schedules and rules and regulations and for a purpose other than that of conducting advertising campaigns by telephone, and such service shall be thereafter used by plaintiff for said purpose of conducting advertising campaigns by telephone, said defendant shall be entitled to require of the plaintiff, in addition to any guarantee furnished at the time of installation of such service, such additional amount as may be necessary to aggregate the sum of $179 as total cash guarantee furnished by plaintiff to defendant to insure the payment of all charges for service.

Dated at San Francisco, California, this twenty-third day of July, 1921.

DECISION No. 9263.

IN THE MATTER OF THE APPLICATION OF DELTA WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 6829.

Decided July 23, 1921.

PUBLIC UTILITY STOCK ISSUE.—Held that stock issued by a public utility without an order by the Railroad Commission is void, notwithstanding authority to issue same by the Commissioner of Corporations.

Houghton and Houghton, by *Edward T. Houghton*, for Applicant.

MARTIN, *Commissioner*.

OPINION.

Delta Warehouse Company asks permission to issue $155,700 par value of common stock and to assume the payment of $140,600 of indebtedness in exchange for certain properties.

Delta Warehouse Company was organized in July, 1920, with an authorized capital stock of $300,000, divided into 3000 shares of the par value of $100 each. The company was organized for the purpose, among others, of engaging in a general grain and warehouse business and to acquire properties both real and personal suitable for and adapted to the conduct of such business in its various branches. It appears from the record that the Frank A. Guernsey Grain Company and W. D. Sheldon and Company have offered to sell to applicant fifty acres of land in exchange for $25,000 of stock and the assumption of a $35,000 indebtedness. The Girvin Warehouse Company has offered to sell to applicant in exchange for $25,000 of stock and the assumption of $40,600 of indebtedness two parcels of land, more particularly described in exhibits filed with the application. Frank A. Guernsey, J. W. Schuler, Philip O'Connell, H. J. Mann, W. J. Sheldon, A. J. Ames and C. Leven-

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saler have offered to sell to applicant in exchange for $25,000 of stock and the assumption of a $45,000 indebtedness, certain real property in the city of Stockton and a warehouse building located thereon. Philip O'Connell and J. W. Schuler, acting as trustees for Frank A. Guernsey, J. W. Schuler, Philip O'Connell, H. J. Mann, W. G. Sheldon, A. J. Ames and C. Levensaler, have offered to sell to applicant in exchange for $80,000 of stock and the assumption of a $20,000 indebtedness, certain real property located in the city of Stockton and a warehouse constructed thereon. Detailed description of the properties, which have been offered to applicant for the considerations mentioned, are filed in this proceeding. There is also filed in this proceeding an appraisal of the properties by George W. Leistner and F. J. Dietrich. The testimony shows that neither of the appraisers are interested in the Delta Warehouse Company, or in any of the property described in the application and that they have appraised the properties which applicant intends to acquire at $360,000.

It appears from a statement made by counsel for applicant that the purpose of this application is to consolidate under one ownership four different parcels of properties, in which J. W. Schuler, A. J. Ames, H. J. Mann, Frank A. Guernsey, Philip O'Connell, W. J. Sheldon and C. Levensaler are interested. It is believed that by the consolidation of the properties under one ownership, they can be more economically managed and operated. The record shows that approximately $89,000 of stock will be issued for the purpose of acquiring warehouse properties, the remainder of the stock being issued to acquire properties not now used or useful in public utility operations. Inasmuch as a large part of the stock covered by this application will be issued to acquire nonpublic utility properties, applicant will be required to file with the Commission a stipulation agreeing that it will not ask and will not urge the Commission to include in a rate base such properties as it may purchase through the issue of stock herein authorized, but not used for public utility purposes.

The record shows that none of the stock which applicant asks permission to issue will be sold to the public generally, but all of it will be issued to the parties mentioned in the application and that these parties stand ready to purchase additional stock in the event that applicant's operations should require the issue and sale of more stock.

Applicant has heretofore filed with the Commissioner of Corporations an application for permission to issue stock in the same amount as covered by this application. The Commissioner of Corporations has granted the Delta Warehouse Company permission to issue such stock. Through an inadvertence or misunderstanding, the company did not until recently file an application with this Commission. It occurs to us that any stock issued by the Delta Warehouse Company without an

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order from this Commission is void, and we therefore suggest that applicant cancel the stock certificates heretofore issued and issue new certificates in lieu thereof as herein permitted.

Applicant has accepted the various offers made to it for the purchase of properties and has agreed to assume the payment of indebtedness amounting to $140,600. Inasmuch as this indebtedness constitutes a lien upon properties which applicant is acquiring, we believe that the assumption of the indebtedness should be authorized by this Commission and that applicant should file with the Commission a copy of each and every mortgage securing the payment of indebtedness which it intends to assume.

I herewith submit the following form of order:

ORDER.

Delta Warehouse Company having applied to the Railroad Commission for permission to issue $155,700 of common stock and assume $140,600 of indebtedness, a public hearing having been held and the Commission being of the opinion that applicant's request should be granted;

It is hereby ordered, that Delta Warehouse Company be and it is hereby authorized to issue 1557 shares ($155,700) of common stock and assume the payment of $140,600 of indebtedness referred to in this application.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized to be issued, seven (7) shares shall be sold to applicant's incorporators at par, for cash, and the proceeds used for working capital. Of the remaining stock 125 shares shall be issued to the Frank A. Guernsey Warehouse Company, 125 shares to W. D. Sheldon and Company, 250 shares to Girvin Warehouse Company, 210 shares to Frank A. Guernsey, 140 shares to J. W. Schuler, 140 shares to Philip O'Connell, 35 shares to H. J. Mann, 196⅜ shares to W. D. Sheldon, 196⅜ shares to A. J. Ames and 131¼ shares to C. Levensaler—all in exchange for the properties referred to and described in this application.

2. The authority herein granted will not become effective until Delta Warehouse Company has filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that Delta Warehouse Company, its successors and assigns, will never urge the Railroad Commission, or other body having jurisdiction, to include in a rate base the cost of property not used or useful in applicant's warehouse business acquired through the issue of stock and the assumption of indebtedness herein authorized, and the Commission having by supplemental order declared that such stipulation, satisfactory in form, has been filed with the Commission.

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3. The authority herein granted will not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

4. Delta Warehouse Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will apply only to such stock as may be issued, sold and delivered, and to such indebtedness as may be assumed, on or before October 1, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of July, 1921.

DECISION No. 9271.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF CERTAIN PROMISSORY NOTES.

Application No. 6981.

Decided July 27, 1921.

A. E. Peat, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

Southern California Gas Company in this application asks permission to issue $80,000 of promissory notes bearing interest at not exceeding 7 per cent per annum.

The petition shows that applicant on June 28, 1921, entered into a contract with Mosbacher Leasehold Company for the purchase of a seven-story concrete building located at 946 South Broadway, Los Angeles. The contract, a copy of which is attached to the petition and marked "Exhibit B," shows that applicant has agreed to pay $100,000 for the building, of which $20,000 will be paid in cash and $80,000 in promissory notes bearing interest at 7 per cent per annum and maturing as follows:

One year after date	$15,000 00
Two years after date	15,000 00
Three years after date	15,000 00
Four years after date	15,000 00
Five years after date	10,000 00
Six years after date	10,000 00

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A. E. Peat, applicant's comptroller, testified that he believes $100,000 to be a fair and reasonable price to be paid for this property. His belief is based on appraisals made by independent real estate buyers, who have estimated this amount to be a reasonable value.

Applicant proposes to use the building for an office building. The testimony of A. E. Peat shows that material saving should be effected as a result of its use for this purpose.

I believe the application should be granted, and herewith submit the following form of order:

ORDER.

Southern California Gas Company having applied to the Railroad Commission for permission to issue notes, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified herein, and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Southern California Gas Company be and it is hereby authorized to issue at face value on or before December 31, 1921, $80,000 of its promissory notes for the purpose of paying in part the purchase price of the building to which reference is made in this application.

The authority herein granted is subject to further conditions as follows:

1. The notes herein authorized to be issued shall bear interest at not exceeding 7 per cent per annum, and shall mature at the times and in the amounts specified in the opinion which precedes this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

3. Southern California Gas Company shall keep such record of the issue and disposition of the notes herein authorized as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of July, 1921.

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DECISION No. 9272.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL BONDS OF THE FACE VALUE OF SIX MILLION DOLLARS.

Application No. 7035.
Decided July 27, 1921.

Roy V. Reppy, for Applicant.

BRUNDIGE, *Commissioner*.

OPINION.

Southern California Edison Company asks permission to issue and sell $6,000,000 face value of general and refunding mortgage 6 per cent twenty-five year gold bonds of the series of 1919. The company proposes to use $15,000 of such bonds for the purpose of refunding $15,000 of United Electric Gas and Power Company bonds that matured December 1, 1920, and to use the proceeds from the remaining $5,985,000 of bonds to reimburse its treasury on account of uncapitalized construction expenditures made since December 1, 1920, and prior to June 30, 1921.

Applicant is engaged in the construction of extensive hydroelectric plants on the Kern River and Big Creek. The record shows that recently applicant has completed its Big Creek No. 2 and its Kern No. 3 projects and that the Big Creek No. 8 unit should be completed by August 1, 1921. These three units have an aggregate capacity of 92,000 horsepower. In addition, applicant reports that it has made extensive construction expenditures on its Florence Lake tunnel and its Shaver Lake project.

By Decision No. 8579, dated January 24, 1921, and No. 8999, dated May 21, 1921, applicant was authorized to use $6,099,260.69 of the proceeds obtained from the sale of common stock to finance in part construction expenditures made prior to December 1, 1920. In Exhibit "2" filed in the above entitled matter, petitioner reports that it has made capital expenditures from December 1, 1920, to June 30, 1921, of $7,553,656.40. Of this amount, $920,000 has been paid by proceeds realized from the sale of stock, leaving capital expenditures of $6,633,656.40 which have not been paid by the issue of securities.

Applicant proposes to sell the bonds, for which application is herein made, at not less than 81 per cent of face value, plus accrued interest; A. N. Kemp, applicant's vice president, testifying that arrangement had been made to sell the entire amount at that price. It proposes to use the $4,847,850 received from the sale of $5,985,000 of bonds to finance, in part, the reported expenditures of $6,633,656.40, leaving a balance

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of $1,785,806.40 of expenditures to be paid by proceeds from the sale of common stock.

By Decision No. 9122, dated June 21, 1921, the Commission authorized applicant to expend $5,058,860.56 of the proceeds from the sale of the common stock authorized to be issued by decisions in Applications Nos. 2743, 4790, 5312 and 6426, to finance construction expenditures made subsequent to December 1, 1920. As stated above, the company has used only $920,000 of such stock proceeds to pay these construction expenditures.

Applicant now reports that it has adjusted its plans and desires to finance the reported expenditures of $7,553,656.40, made since December 1, 1920, by $4,847,850 obtained from the sale of bonds and $2,705,806.40 obtained from the sale of stock.

A supplemental order will be made modifying Decision No. 9122, to permit applicant to expend only $2,705,806.40 of the proceeds from the sale of stock, instead of the $5,058,860.56 heretofore authorized in said Decision No. 9122, to finance, in part, construction expenditures made subsequent to December 1, 1920, and prior to June 30, 1921.

I herewith submit the following order:

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue and sell $6,000,000 face value of its general and refunding mortgage bonds, a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in this order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to issue and sell at not less than 81 per cent of face value, plus accrued interest, $6,000,000 face value of its general and refunding mortgage 6 per cent twenty-five-year gold bonds of the series of 1919.

The authority herein granted is subject to further conditions as follows:

1. Fifteen thousand dollars of the bonds herein authorized shall be issued for the purpose of refunding the $15,000 of United Electric Gas and Power Company bonds that have heretofore matured.

2. The proceeds from the remaining $5,985,000 of bonds shall be used by applicant to finance in part the cost of the extensions, additions and betterments made subsequent to December 1, 1920, and prior to June 30, 1921, and referred to in this application.

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3. The authority herein granted shall not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

4. Southern California Edison Company shall keep such record of the issue, disposition and sale of the bonds herein authorized and of the use of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will apply only to such bonds as may be issued and sold on or before March 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of July, 1921.

DECISION No. 9273.

IN THE MATTER OF THE APPLICATION OF ONTARIO POWER COMPANY, FOR AN ORDER AUTHORIZING THE ISSUE OF SEVEN PER CENT PREFERRED STOCK.

Application No. 6973.

Decided July 27, 1921.

Glenn D. Smith, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

Ontario Power Company, in this application, asks permission to issue and sell at not less than par, $30,000 of its 7 per cent cumulative preferred stock.

The company was organized on or about October 29, 1901, and is at present engaged in the manufacture and distribution of electric energy in and about Ontario and Upland, San Bernardino County. On June 1, 1921, it reported outstanding, $380,000 of common stock, $162,000 of preferred stock, $280,000 of first mortgage bonds, $78,000 of serial gold notes and $20,000 of short term notes.

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Applicant's annual reports filed with the Commission show its revenues and expenses for the years ending December 31 as follows:

Item	1918	1919	1920
Operating revenues	$132,186 10	$159,360 52	$204,277 04
Operating expenses	79,049 14	112,942 06	124,599 54
Net operating revenues	$53,136 96	$46,418 46	$79,677 50
Nonoperating revenues	1,127 26	1,271 01	1,726 61
Gross corporate income	$54,264 22	$47,689 47	$81,404 11
Deductions:			
Uncollectible bills	$478 07	$18 06	$281 40
Interest on funded debt	14,596 20	15,978 34	19,670 00
Miscellaneous	215 23	233 34	633 51
Total deductions	$15,289 50	$16,229 74	$20,584 91
Profit for year	$38,974 72	$31,459 73	$60,819 20

The company reported corporate surplus of $77,762.22 on December 31, 1918; of $108,875.52 on December 31, 1919; and of $141,337.05 on December 31, 1920. Applicant reports that it has expended from income for capital purposes from March 10, 1921, to June 28, 1921, the sum of $30,853.57, which has not been reimbursed by the issue of stock or bonds. This amount is summarized as follows:

Line materials and supplies	$7,797 86
Pole line material	944 53
Pole line labor	1,715 15
Transformers	17,190 49
Meters	3,205 54

Details of these expenditures are reported in Exhibit "A," a copy of which is attached to the petition.

The company asks permission to use the proceeds from the sale of $30,000 of stock to pay short term notes aggregating $20,000 and to reimburse its treasury for its reported expenditures. The record shows that the $20,000 obtained through the issue of the short term notes was used to pay part of the cost of constructing the additions and betterments referred to herein.

I believe the application should be granted, and herewith submit the following form of order:

ORDER.

Ontario Power Company having applied to the Railroad Commission for permission to issue $30,000 of its 7 per cent cumulative preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or

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purposes specified in this order, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Ontario Power Company be and it is hereby authorized to issue and sell on or before June 30, 1922, at not less than par, $30,000 of its 7 per cent cumulative preferred stock and to use the proceeds obtained from the sale of such stock to pay the $20,000 of notes referred to in the petition herein, and to reimburse its treasury for the construction of the extensions, additions and betterments referred to in the foregoing opinion and in this petition, provided that Ontario Power Company keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of July, 1921.

DECISION No. 9274.

IN THE MATTER OF THE APPLICATION OF ONTARIO POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF SEVEN PER CENT SECURED NOTES.

Application No. 7024.
Decided July 27, 1921.

Glenn D. Smith, for Applicant.

LOVELAND, *Commissioner.*

OPINION.

In this application, as amended at the hearing, Ontario Power Company asks permission to execute a deed of trust securing an authorized issue of $60,000 of 7 per cent notes, and to issue at this time, $15,500 of such notes at par.

The company proposes to use the $15,500 to be received from the issue of the notes to pay the purchase price of certain properties described in the petition as follows:

Lot 5, block 4, and lots 1, 2 and 18, block 20, San Antonio Heights tract (Ontario, California); the steel pipe line from the north part of lot 8, block 36, to the south line of lot 1, block 20, San Antonio Heights tract, and the power rights formerly owned by Pacific Electric Company.

It is the intention of Ontario Power Company hereafter to extend its pressure line from lot 1, block 20, to lot 5, block 4, and to construct

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on lot 5, a remote control power house. These proposed extensions are reported to be necessary to adequately take care of business needs.

The steel pipe to be purchased consists of 1609 feet of 22-inch steel pipe, together with concrete water boxes. This pipe was formerly used by Pacific Electric Company, but is not at present in service. The record shows that the pipe is in good condition and can be advantageously used by applicant.

The power rights consist of the right to take 420 miner's inches of water from San Antonio Creek during the months of January, February and March and not exceeding 700 miner's inches during the remaining nine months of the year. These power rights are not at present utilized for public utility or other purposes.

Glenn D. Smith, applicant's general manager, testified that he believed $15,500 to be a fair and reasonable price to pay for these properties, his belief being based on investigations and inquiries made by him.

Under the deed of trust which it is proposed to execute to J. F. Fredendall, trustee, applicant may from time to time issue $60,000 of serial notes bearing interest at not exceeding 7 per cent per annum and maturing in equal annual installments of $4,000 per annum on October 1 of each of the years 1922 to 1936, inclusive. The notes may be redeemed by the company on any interest payment date before maturity at 101 and accrued interest. The deed of trust is a first lien on the properties it is now proposed to purchase. A copy of the deed of trust is attached to the petition.

I herewith submit the following form of order:

ORDER.

Ontario Power Company having applied to the Railroad Commission for permission to execute a deed of trust and to issue notes, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Ontario Power Company be and it is hereby authorized to execute a deed of trust substantially in the same form as that attached to the petition herein;

Provided, that the approval herein given to execute said deed of trust is for the purpose of this proceeding only and is an approval in so far as the Railroad Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval as to such other legal requirements to which said deed of trust may be subject.

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It is hereby further ordered, that Ontario Power Company be and it is hereby authorized to issue and sell at not less than face value $15,500 of its 7 per cent secured notes and to use the proceeds from the sale thereof to pay the purchase price of the properties described in the foregoing opinion and in the application herein.

The authority herein granted is subject to further conditions as follows:

1. Ontario Power Company shall keep such record of the issue and sale of the notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

3. The authority herein granted will apply only to such mortgage as may be executed and to such notes as may be issued on or before December 31, 1921.

The foregoing opinion and order are hereby approved as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of July, 1921.

DECISION No. 9275.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AUTHORITY TO RENEW CERTAIN NOTES.

Application No. 6982.

Decided July 27, 1921.

A. E. Peat, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

In this application, as amended at the hearing, San Joaquin Light and Power Corporation asks permission to issue its promissory notes in the aggregate face amount of $332,691.31.

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The company proposes to issue $296,000 of the notes to pay or refund the following outstanding notes:

Payee	Date of last renewal	Rate, per cent	Date due	Age, months	Amount
Western Pipe and Steel Company	4/22/21	7	7/22/21	11	$20,000 00
First National Bank, Fresno	3/25/21	7	6/25/21	12	25,000 00
Security Trust and Savings Bank, Los Angeles	5/ 2/21	7	8/ 1/21	12	75,000 00
Union Bank and Trust Company, Los Angeles	5/ 2/21	7	8/ 1/21	12	50,000 00
Security Trust and Savings Bank, Los Angeles	5/ 9/21	7	8/ 7/21	12	50,000 00
National Bank of Bakersfield	3/10/21	7	9/10/21	12	10,000 00
First Bank of Kern, Bakersfield	6/28/21	7	9/28/21	12	16,000 00
Fidelity Trust and Sav. Bank, Fresno	6/ 6/21	7	9/ 5/21	12	20,000 00
Fidelity Trust and Sav. Bank, Fresno	6/20/21	7	9/19/21	12	30,000 00

A. E. Peat, applicant's treasurer, testified that the money secured by the issue of each note was used by applicant for the acquisition of property and for the construction, extension and improvement of its facilities and services, and that none of the money was used to pay operating expenses.

The record shows that $135,000 of the notes to be refunded were issued pursuant to authority granted by the Railroad Commission in Decision No. 7855, dated July 10, 1920, and that the issue of the remaining notes, amounting to $161,000 and representing indebtedness incurred for a period of less than one year, has not been authorized by the Commission heretofore.

At the hearing, applicant amended its application so as to ask permission to issue to San Joaquin Valley Farm Lands Company or order, its promissory note or notes aggregating $36,691.30, bearing interest at 6 per cent per annum, dated March 1, 1921, and maturing March 1, 1926. The record shows that applicant at a cost of $146,765.27 has constructed a substation on the property of San Joaquin Valley Farm Lands Company, a high voltage electric power transmission line of about 5000 horsepower, from its present terminus at a point about four miles west of the city of Fresno to the new substation, and an 11,000-volt transmission line connecting the new substation on the land of San Joaquin Valley Farm Lands Company, with a pumping plant on the properties of a certain irrigation district known as the Tranquillity Irrigation District.

Applicant also has built, or has agreed to build, distributing lines within Tranquillity Irrigation District and James Irrigation District. It appears that the two irrigation districts have recently been organized and that they are desirous of obtaining power chiefly to operate pumps for the production of water for irrigation purposes. San Joaquin

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Valley Farm Lands Company is the largest individual landowner within these districts.

It appears that San Joaquin Valley Farm Lands Company has made advances to applicant for this construction work and that applicant proposes to pay up such advances by the issue of $110,073.96 of prior preferred stock at $98.50 per share, and $36,691.31 of promissory notes.

The issue of the prior preferred stock has been authorized by the Commission in Decision No. 7057 dated January 26, 1920. Applicant now asks permission to issue the $36,691.31 of notes. San Joaquin Valley Farm Lands Company has agreed to accept the notes and stock in payment of its advances.

I herewith submit the following form of order:

ORDER.

San Joaquin Light and Power Corporation having applied to the Railroad Commission for permission to issue notes, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to issue at not less than face value on or before December 31, 1921, its promissory notes in the aggregate amount of $332,691.31.

The authority herein granted is subject to further conditions as follows:

1. Two hundred ninety-six thousand dollars of the notes herein authorized shall be issued for a period of one year for the purpose of renewing the notes referred to and described in the preceding opinion; such notes shall be issued to the same payees in the same amounts as the notes they will give to renew, and shall bear interest at not exceeding 7 per cent per annum.

2. Thirty-six thousand six hundred ninety-one dollars and thirty cents of the notes herein authorized shall be issued to San Joaquin Valley Farm Lands Company or order, for the purpose specified in the preceding opinion. Such note or notes shall bear interest at not exceeding 6 per cent per annum, and shall mature on or before five years after date of issue.

3. Applicant, may, if it so desires, issue the $296,000 of notes referred to in Condition "1" for a period of less than one year and renew such notes from time to time, provided that the combined term

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of the notes herein authorized and of the notes issued in renewal, shall not exceed one year from the date of the first note issued under this order.

4. The authority herein granted shall not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

5. Applicant shall keep such record of the issue of the notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of July, 1921.

DECISION No. 9276.

IN THE MATTER OF THE APPLICATION OF FRESNO CITY WATER CORPORATION FOR AUTHORITY TO RENEW A CERTAIN NOTE.

Application No. 6980.

Decided July 27, 1921.

A. E. Peat, for Applicant.

LOVELAND, *Commissioner*.

ORDER.

Fresno City Water Corporation having applied to the Railroad Commission for permission to issue a $10,000 promissory note in renewal of a note of like amount issued to Bank of Italy, Fresno, pursuant to authority granted in Decision No. 8460, dated December 20, 1920, a public hearing having been held, and the Commission being of the opinion that applicant's request should be granted; now, therefore;

It is hereby ordered, that Fresno City Water Corporation be and it is hereby authorized to issue its one-year promissory note in the principal amount of $10,000 to Bank of Italy, Fresno, for the purpose of paying or refunding the note referred to in this application.

The authority herein granted is subject to the following conditions:

1. The note herein authorized to be issued shall bear interest at not exceeding 7 per cent per annum.

2. Applicant may, if it so desires, issue the note herein authorized for a term of less than one year and renew said note from time to time, provided that the combined terms of the note herein authorized

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and those issued in renewal thereof, shall not exceed one year from the date of the first note issued under the authority herein granted.

3. Applicant shall file with the Railroad Commission a statement such as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of July, 1921.

DECISION No. 9279.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE NECESSITY FOR ADDITIONS, EXTENSIONS, IMPROVEMENTS TO, OR CHANGES IN, THE EXISTING PLANT, EQUIPMENT AND FACILITIES OF THE LAKE HEMET WATER COMPANY TO SECURE ADEQUATE SERVICE.

Case No. 1595.

Decided July 27, 1921.

WATER UTILITY—SERVICE—ARTESIAN WELLS.—Company directed to increase its water supply by at least 150 miner's inches by cleaning all wells and sinking new wells in the artesian district above the dam, in order to meet immediate service requirements.

Hunsaker, Britt and Cosgrove, by *T. B. Cosgrove*, for Lake Hemet Water Company.
Henry Goodcell and *W. G. Irving*, for Consumers.

BY THE COMMISSION.

OPINION.

The above entitled matter is a proceeding instituted on the Commission's own motion for the purpose of investigating the water supply, for this season, of the Lake Hemet Water Company, a public utility engaged in the business of supplying water for domestic and irrigation purposes in the vicinity of Hemet, Riverside County, California.

Several informal complaints had been filed by consumers under this system, alleging insufficient supply for the coming season, and the Commission's engineers had reported to the same effect. Accordingly the Commission issued its order directing the Lake Hemet Water Company to appear and show cause, if any it had, why the Commission should not make its order directing that such additions, extensions, repairs, improvements or changes be made in such particulars and to the extent and in the manner as the Commission might find reasonable and necessary to secure such adequate service and facilities.

A public hearing was held in this matter, at which all interested parties were given an opportunity to be heard, and prior to the hear-

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ing a field investigation was made by a representative of the Commission's engineering department.

The Lake Hemet Water Company's source of supply is the natural flow of the San Jacinto River and its tributaries, augmented by Lake Hemet, a storage reservoir, located on the south fork of said river.

At the beginning of this irrigation season it appeared that there would be a very serious shortage of water, as the amount stored in Lake Hemet is less than for a number of years back. It is also the fact that there is a larger acreage of full-bearing orchards, which increases the amount of water required. This shortage has been somewhat alleviated by unusually heavy rains during the month of May, which has postponed the date of opening the reservoir gates by at least a month. However, the evidence shows that there will still be a shortage.

It appears that to obtain immediate relief there is only one method available and that is by drilling wells. These wells might be located within the area irrigated, as this has been proven to be underlain with water-bearing gravels. The lift in the wells already drilled in this locality varies from 85 to 190 feet. To install pumping plants in this locality would be very expensive, and the maintenance and operation expense would also be excessive due to the high lift.

There is also an artesian area above Lake Hemet dam which at one time was developed and which, as the records show, produced approximately 200 to 250 miner's inches continuous flow. However, these wells were covered up by a flood in 1916 and at the present time are probably not producing over 50 miner's inches. A redevelopment of this area will add at least 150 miner's inches to the company's supply. The development expense will not be so great as to develop the same amount of water within the irrigated area, and the operation expense will be practically nil as no pumping will be necessary.

It appears from the evidence that with an additional 150 miner's inches it will be possible to bring the orchards through the season without any serious loss. As this is the approximate amount that can be developed above the reservoir without pumping, we believe that it is reasonable and just to the consumers and the company to require the latter to make this development at once.

If it appears later that a still greater supply is necessary the company can then be required to make such additional development.

ORDER.

The Railroad Commission having instituted an investigation as entitled above, a public hearing having been held, and the matter being now ready for decision;

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It is hereby ordered as follows:

1. That the Lake Hemet Water Company be and it is hereby directed to proceed without delay to increase its supply of water to the extent of at least 150 miner's inches (three cubic feet per second) by cleaning the old wells and by drilling the necessary new wells in the artesian area located above the Lake Hemet dam.

2. That the Lake Hemet Water Company install a weir or weirs so that it will be possible to determine when the required development has been reached.

3. That the Lake Hemet Water Company file with this Commission within ten (10) days of the date of this order, a report showing the plan to be followed and the progress made in carrying out this order, and that it file a progress report every ten (10) days thereafter until the full development has been made.

Dated at San Francisco, California, this twenty-seventh day of July, 1921.

DECISION NO. 9280.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE AND SELL ONE HUNDRED THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 6426.

Decided July 27, 1921.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 9122, dated June 21, 1921, authorized Southern California Edison Company to use not exceeding $5,058,860.56 of the proceeds realized from the sale of the common stock authorized to be issued by decisions in applications No. 2743, No. 4790, No. 5312 and No. 6426 to finance the cost of extensions, additions and betterments made subsequent to December 1, 1920; and

Whereas, Southern California Edison Company reports that it now proposes to expend only $2,705,806.40 of such stock proceeds to finance capital expenditures made subsequent to December 1, 1920, and prior to June 30, 1921, and to finance the balance of such capital expenditures by proceeds from the sale of bonds authorized by the decision in Application No. 7035; and

Whereas, it appears to the Railroad Commission that said Decision No. 9122 should be modified so as to authorize applicant to use only

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$2,705,806.40 of stock proceeds to finance capital expenditures made subsequent to December 1, 1920, instead of the $5,058,860.56 heretofore authorized to be used in said Decision No. 9122: now, therefore;

It is hereby ordered, that the order in Decision No. 9122, dated June 21, 1921, be and it is hereby modified so as to permit Southern California Edison Company to use not exceeding $2,705,806.40 of the proceeds from the sale of the stock authorized by decisions in Applications Nos. 2743, 4790, 5312 and 6426 instead of the $5,058,860.56 heretofore authorized to be used in said Decision No. 9122 to finance in part the cost of extensions, additions and betterments made subsequent to December 1, 1920, and prior to June 30, 1921, and referred to in Application No. 7035.

It is hereby further ordered, that the orders in decisions in Applications Nos. 2743, 4790, 5312 and 6426 shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-seventh day of July, 1921.

DECISION NO. 9287.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING THE SALE OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS OF GENERAL MORTGAGE BONDS AND THE HYPOTHECATION OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS OF FIRST AND REFUNDING BONDS.

Application No. 6238.

Decided July 30, 1921.

Guy C. Earl and *Chaffee E. Hall*, by *Chaffee E. Hall*, for Applicant.

LOVELAND, *Commissioner*.

SECOND SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 8364, dated November 26, 1920, as amended, authorized Great Western Power Company of California to issue and sell at not less than 94 per cent of face value, plus accrued interest, $1,500,000 of general mortgage convertible 8 per cent gold bonds; and

Whereas, applicant's general mortgage securing the payment of said $1,500,000 of general mortgage bonds provides, among other things, that applicant, as rapidly as it can do so under the terms of its first and refunding mortgage, shall deposit with the trustee under said general mortgage, such an amount of its 7 per cent Series B first and refunding

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mortgage bonds as will equal in face value the general mortgage bonds issued and outstanding; and

Whereas, applicant reports in its first supplemental petition in the above entitled matter that it is entitled under the terms of its first and refunding mortgage, to issue $1,500,000 of its said Series B bonds; and

Whereas, applicant asks permission to issue and deposit such Series B bonds with the trustees under the general mortgage, as security for the $1,500,000 of general mortgage bonds heretofore authorized to be issued, and subsequently to exchange them for such general mortgage bonds or to sell them and use the proceeds to redeem such general mortgage bonds;

And, a public hearing having been held, it appearing from the testimony of L. A. Reynolds, applicant's auditor and assistant treasurer, that applicant is at this time entitled to issue $1,500,000 of its Series B first and refunding mortgage bonds: now, therefore;

It is hereby ordered, that Great Western Power Company of California be and it is hereby authorized to issue $1,500,000 of its Series B first and refunding mortgage bonds and to pledge them with the trustee under its general mortgage as security for the $1,500,000 of general mortgage bonds heretofore authorized to be issued by Decision No. 8364, dated November 26, 1920, as amended.

It is hereby further ordered, that Great Western Power Company of California be and it is hereby authorized to sell or to exchange said $1,500,000 of Series B bonds herein authorized, for a like amount of general mortgage bonds, upon the following conditions:

1. The bonds herein authorized, or any part thereof, may be sold for cash at par and the proceeds used to purchase a like amount of general mortgage bonds at 105 and accrued interest, when, and as, said general mortgage bonds are called for redemption, applicant paying the premium of 5 per cent with moneys derived otherwise than from the sale of Series B bonds.

2. The bonds herein authorized, or any part thereof, may be exchanged for a like amount of general mortgage bonds when, and as, said general mortgage bonds are called for redemption on the basis of 105 and accrued interest, for general mortgage bonds at par and accrued interest, applicant paying the premium of 5 per cent in cash.

3. On demand of the holders of general mortgage bonds at any time after Series B bonds shall have been pledged to the full par value of the general mortgage bonds outstanding, the bonds herein authorized, or any part thereof, may be exchanged for general mortgage bonds on the basis of 102½ and accrued interest, for general mortgage bonds at par and accrued interest, applicant paying the premium of 2½ per cent in cash.

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4. Applicant shall keep such record of the issue, pledge and exchange of the bonds herein authorized as will enable it to file on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing second supplemental order is hereby approved and ordered filed as the second supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of July, 1921.

DECISION No. 9288.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING THE EXECUTION OF A MORTGAGE TO SECURE AN ISSUE OF FIVE MILLION DOLLARS OF GENERAL LIEN BONDS; THE SALE OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS OF SAID LIEN BONDS AND THE HYPOTHECATION OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS OF FIRST AND REFUNDING BONDS.

Application No. 6526.

Decided July 30, 1921.

Guy C. Earl and *Chaffee E. Hall*, by *Chaffee E. Hall*, for Applicant.

LOVELAND, *Commissioner.*

SECOND SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 8729, dated March 10, 1921, authorized Great Western Power Company of California to issue and sell $2,500,000 of its general lien convertible 8 per cent gold bonds; and

Whereas, applicant's mortgage securing the general lien bonds provides, among other things, that applicant, as rapidly as it can do so under the terms of its first and refunding mortgage, issue and deposit with the trustee under said general lien mortgage, such an amount of its 7 per cent Series B first and refunding mortgage as will equal in face value the general lien bonds issued and outstanding; and

Whereas, applicant reports in its first supplemental petition in the above entitled matter, as amended, that it is entitled under the terms of its first and refunding mortgage, to issue Series B bonds in the amount of $2,500,000; and

Whereas, applicant asks permission to issue and deposit such $2,500,000 of Series B bonds with the trustee under the mortgage securing its general lien bonds, as security for the payment of said general lien bonds heretofore authorized to be issued, and subsequently

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to exchange them for such general lien bonds or to sell them and use the proceeds to redeem such general lien bonds;

And, a public hearing having been held, it appearing to the Railroad Commission that applicant's request should be granted: now, therefore;

It is hereby ordered, that Great Western Power Company of California be and it is hereby authorized to issue $2,500,000 of its Series B 7 per cent first and refunding mortgage bonds and to pledge them with the trustee under applicant's general lien mortgage dated February 1, 1921, as security for the said $2,500,000 of general lien bonds heretofore authorized to be issued by the Railroad Commission in its Decision No. 8729.

It is hereby further ordered, that Great Western Power Company of California be and it is hereby authorized to sell or to exchange said $2,500,000 of Series B bonds herein authorized, for a like amount of general lien bonds upon the following conditions:

1. The bonds herein authorized, or any part thereof, may be sold for cash at par and the proceeds used to purchase at 105 and accrued interest, a like amount of general lien bonds when and as such general lien bonds are called for redemption, applicant paying the premium of 5 per cent with moneys derived otherwise than from the sale of said Series B bonds.

2. The bonds herein authorized, or any part thereof, may be exchanged for a like amount of general lien bonds when, and as said general lien bonds are called for redemption on the basis of 105 and accrued interest, for general lien bonds at par and accrued interest, applicant paying the premium of 5 per cent in cash.

3. On demand of the holders of said general lien bonds, applicant may exchange the bonds herein authorized, or any part thereof, upon the basis of par for par on February 1, 1935.

4. Applicant shall keep such record of the issue, pledge and exchange of the bonds herein authorized as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing second supplemental order is hereby approved and ordered filed as the second supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of July, 1921.

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DECISION No. 9289.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE SUFFICIENCY OF THE WATER SUPPLY, ADEQUACY OF SERVICE, RULES, REGULATIONS AND PRACTICES OF THE ONTARIO INVESTMENT COMPANY AND THE TERRITORY SERVED OR TO BE SERVED BY SAID COMPANY IN ITS OPERATIONS AS A PUBLIC UTILITY WATER SYSTEM.

Case No. 1584.

Decided July 30, 1921.

WATER UTILITY.—Disposing of water for compensation constitutes a public utility as defined by the Public Utilities Act.

WASTE OF WATER—LEAKY SYSTEM.—It is held the duty of the utility to repair its system and deliver water as economically as possible.

FREE SERVICE.—It appearing that certain consumers were not paying for service, utility directed to collect from them the established rates.

SALE OF STOCK.—Stock owned by the utility in Cucamonga Water Company held to be dedicated to public use and defendant company directed to secure return of eighteen shares parted with.

James S. Bennett and *C. E. Sears*, for Defendant.

John H. Klusman, for Cucamonga Water Company.

W. S. Bullis, for Growers Fruit Company.

Geo. L. Winter, in propria persona.

BY THE COMMISSION.

OPINION.

Ontario Investment Company is primarily a real estate concern, and incidental to such business conducts a small water distribution system in the vicinity of the town of Cucamonga, San Bernardino County, California. It obtains its water supply through its ownership of stock in the Cucamonga Water Company, a mutual water company.

This proceeding was brought about by an informal complaint to the Commission by the Cucamonga Water Company to the effect that the Ontario Investment Company had sold certain shares of such water stock. The consent of this Commission not having been secured to the transfer of the stock, and it appearing that the water supply available to the consumers of the utility would be diminished by its disposal, the Commission instituted an action on its own initiative as indicated above.

A public hearing was held in this matter before Examiner Satterwhite at Ontario on June 30, 1921.

From the evidence it appears that the district which the Ontario Investment Company supplies with water service consists of a small realty subdivision situated in the town of Cucamonga. Water is delivered to defendant by the Cucamonga Water Company at a point on the tract whence it is distributed by the Ontario Investment Company to approximately twenty-eight consumers. The distribution system consists of about three-fourths mile of 4-inch pipe. The Ontario

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Investment Company came into possession of this water system when it took over the subdivision from the Cucamonga Land and Town Company on May 12, 1904. At the time of taking over the property from the Cucamonga Land and Town Company it appears that 21.4 shares of stock in the Cucamonga Water Company were acquired. Each share of the stock of the Cucamonga Water Company entitles the holder to a maximum of one-fourth of a miner's inch of water, continuous flow, equivalent to 1/200 of a cubic foot per second. The company held this stock until October 1, 1919, when 10 shares were sold to W. H. Stipe and 8 shares were sold to George L. Winter, the company retaining 3.4 shares.

In its informal negotiations with the Commission previous to the institution of this proceeding, the Ontario Investment Company denied that it was operating as a public utility water company, but the evidence clearly shows that the defendant for many years has been and at the present time is disposing of water for compensation and in so doing is a public utility as defined by the Public Utilities Act.

Defendant has taken the position that it does not own the distribution system described above. Just what defendant is attempting to accomplish by this stand we do not know, but it was clearly shown that defendant has used the pipe system ever since it took over the property from the Cucamonga Land and Town Company in 1904 and it was also shown that defendant has repaired the pipe line at its own expense. Defendant should continue to maintain the pipe system and supply its consumers as heretofore. It developed during the proceedings that the pipe system is in a leaky condition, resulting in a considerable waste of water. It is the duty of the defendant utility to properly repair its system and deliver water as economically as possible. If, as indicated in the testimony, certain consumers resort to wasteful practices, this should be taken care of by establishing rules and regulations providing against such wasteful practices, and submitting same to the Commission for its acceptance. Further economies could be accomplished by the installation of meters. However, this would necessitate an application to the Commission for the establishment of metered rates, inasmuch as the company is operating solely under flat rates at present.

The evidence shows that the Ontario Investment Company has been serving at least 28 domestic and one industrial consumer during the past few years, but has collected from approximately 15 only, the remainder apparently obtaining water without cost. All these consumers unquestionably are within the district covered by the defendant's system and it is defendant's duty to continue to serve them, collecting from all at the duly established rates.

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We now come to the question of whether this utility should or should not be permitted to complete the transfer of a portion of the stock held by it in the Cucamonga Water Company, for this Commission does not consider that the sale of stock to Messrs. Stipe and Winter has been legally consummated until the authority of this Commission has been given. In our opinion this stock is useful public utility property as described in section 51 of the Public Utilities Act. The evidence shows that the consumers on the system of the Ontario Investment Company have been supplied with water from the 21.4 shares owned by it in the Cucamonga Water Company, and there is no question but that such shares of stock have been dedicated to public use and are a part of the property of the Ontario Investment Company in its operations as a public utility water company.

Testimony was introduced showing that during certain periods of drought, this utility was unable to furnish sufficient water to supply all the needs of its consumers, though at the same time enjoying the allotment of water due it at the time by virtue of its ownership of 21.4 shares of stock of the Cucamonga Water Company. It is our understanding that, in the event of a shortage of supply, the amount distributed by the Cucamonga Water Company is prorated among its stockholders.

The assessments the Ontario Investment Company pays to the Cucamonga Water Company on the said 21.4 shares of stock amount to approximately $230 annually. The gross income received from its consumers is in the neighborhood of $180 annually. That the utility can not continue to operate at the loss indicated by these figures is obvious, but we believe that its income could be considerably increased by collecting for all water delivered to consumers and by following other recommendations referred to above. Should this utility find its revenues insufficient to meet the cost of operation, etc., it always has the recourse of applying to this Commission for an increase in rates.

If defendant proceeds to place its public utility water business in an orderly condition and should decide later to come before the Commission with an application to dispose of a portion of the said 21.4 shares of stock, showing that the holding of the entire block is unnecessary to supply its consumers, such application would be given due consideration. In the meantime, however, it will be necessary for the defendant to retain the said 21.4 shares of Cucamonga Water Company stock.

Pending the outcome of this proceeding the Commission has advised the Cucamonga Water Company and the Ontario Investment Company that water may temporarily be delivered to Messrs. Stipe and Winter on the stock transferred to them. Such temporary authority will be rescinded in the order.

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ORDER.

The Commission having instituted an investigation on its own motion into the sufficiency of the water supply, adequacy of service, rules, regulations and practices of the Ontario Investment Company in the territory served or to be served by said company in its operation of a public utility water system in and in the vicinity of Cucamonga, San Bernardino County, a public hearing having been held and the Commission being fully advised in the premises:

It is hereby found as a fact that the Ontario Investment Company in conducting a water distribution system for compensation in and in the vicinity of Cucamonga, San Bernardino County, is a public utility within the meaning of the Public Utilities Act.

It is hereby further found as a fact that those certain 21.4 shares of stock of the Cucamonga Water Company owned by the Ontario Investment Company, 10 of which shares were transferred to W. H. Stipe on or about October 1, 1919, and 8 of which shares were transferred to George L. Winter on or about October 1, 1919, are the legal useful property of the Ontario Investment Company and necessary to its operation as a public utility water company;

And basing its order on the foregoing findings of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, as follows:

1. That within thirty (30) days of the date of this order the Ontario Investment Company shall secure the return of those certain blocks of 8 and 10 shares of Cucamonga Water Company stock referred to above which were transferred to Messrs. Stipe and Winter respectively, and shall file a certified statement with this Commission within ten (10) days thereafter, indicating to the Commission its compliance therewith;

2. That the Ontario Investment Company be and it is hereby directed to refrain from making further transfers from its holding of 21.4 shares of stock herein found to be owned by it in the Cucamonga Water Company unless authorized to do so by this Commission;

3. That the temporary permission heretofore given the Ontario Investment Company and the Cucamonga Water Company to deliver water to said Messrs. Stipe and Winter because of any transfer of stock made to them by the Ontario Investment Company, be and it is hereby rescinded and set aside;

4. That the Ontario Investment Company file with this Commission for its acceptance within thirty (30) days from the date of this order, rules and regulations governing its relations with its consumers, said rules and regulations to become effective as corrected and amended upon their acceptance for filing by this Commission.

Dated at San Francisco, California, this thirtieth day of July, 1921.

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DECISION No. 9290.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO CREATE A BONDED INDEBTEDNESS IN THE AUTHORIZED SUM OF FIFTY MILLION DOLLARS, TO ENTER INTO A MORTGAGE OR DEED OF TRUST FOR THE PURPOSE OF SECURING THE SAME, TO ISSUE AND SELL BONDS OF SAID INDEBTEDNESS, WHEN CREATED, OF THE PAR VALUE OF TWO MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS, AND TO ISSUE AND SELL PREFERRED STOCK OF THE PAR VALUE OF THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS; AND, FURTHER

IN THE MATTER OF THE APPLICATION OF SAN DIEGO GAS AND ELECTRIC COMPANY TO ISSUE STOCK OF THE PAR VALUE OF THREE HUNDRED DOLLARS AND TO EXECUTE THE ABOVE MENTIONED MORTGAGE OR DEED OF TRUST JOINTLY WITH SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY, AND TO EXECUTE A LEASE OF ALL ITS PROPERTY TO SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY.

Application No. 6744.

Decided July 30, 1921.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 8956, dated May 9, 1921, as amended, authorized San Diego Consolidated Gas and Electric Company, among other things, to issue and sell at not less than 81 per cent of face value, plus accrued interest, $2,750,000 of its 6 per cent first and refunding mortgage bonds, subject among others, to the condition that the proceeds from the sale of such bonds be expended only as authorized by the Railroad Commission; and

Whereas, by Decision No. 9121, dated June 20, 1921, the Railroad Commission authorized applicant to expend $827,500 of the proceeds obtained from the sale of such bonds to pay debentures which have been called for payment, or for the purpose of paying obligations incurred to redeem the debentures, and to expend $556,079.51 additional of such proceeds, to finance construction expenditures not otherwise capitalized and made by applicant up to and including March 31, 1921; and

Whereas, San Diego Consolidated Gas and Electric Company in its second supplemental application reports that up to and including June 30, 1921, it has expended for the construction of extensions, additions and betterments, the sum of $448,226, which has not been paid for through proceeds obtained from the sale of stock or bonds; and

Whereas, applicant, to pay for such expenditures, asks permission to use $448,226 obtained from the sale of bonds authorized to be issued

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and sold by said Decision No. 8956, and it appearing to the Commission that applicant's request should be granted: now, therefore;

It is hereby ordered, that San Diego Consolidated Gas and Electric Company may use not exceeding $448,226 of the proceeds obtained from the sale of bonds, the issue of which is authorized by Decision No. 8956, dated May 9, 1921, as amended, to finance construction expenditures not otherwise capitalized and made by San Diego Consolidated Gas and Electric Company up to and including June 30, 1921, all as more particularly set forth in applicant's second supplemental petition in this proceeding.

It is hereby further ordered, that the order in Decision No. 8956, dated May 9, 1921, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this thirtieth day of July, 1921.

DECISION NO. 9294.

P. N. ASHLEY, HARRY A. DUTTON, SHELLY LEE, C. H. JOHNSON, G. G. BLYMER, MARY S. GEBHART, AND MRS. R. B. MOORE

vs.

SUTTER-BUTTE CANAL COMPANY.

Case No. 1352.

Decided July 30, 1921.

EXTENSIONS.—When consumers advance the cost of unremunerative extensions, the utility is not the sole beneficiary, as the consumers benefit by a water system dedicated to public use, and if it is properly run, they are assured good service at reasonable rates.

REBATE OF ADVANCES.—Rule for return of advances for noncompensatory extensions at rate of one-seventh of gross revenue, payable in annual installments until the entire amount is returned, held fair to both parties, making for stabilization of the financial affairs of the utility and being reflected in dependable and proper service.

John S. Partridge and *Arthur B. Eddy*, for Complainants.

Isaac Frohman, for Defendants.

BY THE COMMISSION.

OPINION.

The complainants in the above entitled proceeding ask that the defendant, Sutter-Butte Canal Company, be required to refund certain amounts advanced by them to cover the cost of constructing a ditch known as the Crocker lateral, which was built to supply complainants with water for irrigation purposes. For a history of the Sutter-Butte Canal Company and a description of its system reference is made to Decision No. 5227, dated March 25, 1918, Case No. 909, ***E. L. Nunn*** *et al.* vs. *Sutter-Butte Canal Company* (combined with other matters

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for hearing and decision), page 425, volume 15, Opinions and Orders of the Railroad Commission.

It is stated by complainants that they are owners of 1740 acres of land lying west of the Cherokee Canal, Butte County, and that early in 1918 they entered into negotiations with the defendant Sutter-Butte Canal Company to supply water to their lands for the purpose of irrigating rice. In order to convey water to complainants' lands, it was necessary to construct approximately seven miles of ditch and as a condition precedent to the construction of the ditch and the furnishing of service, complainants were required to enter into contracts with defendant in accordance with the terms of which complainants advanced to the utility the estimated cost of constructing the ditch and the securing of the necessary rights of way, amounting to $12,730, the amount so advanced to be rebated at the rate of one-seventh of total annual revenue derived from the ditch. Such repayments were to begin after the second year the ditch was in operation and were to continue four years thereafter. Complainants contend that defendant should rightfully have constructed the ditch at its own expense without requiring them to advance the cost thereof, inasmuch as sufficient revenue was assured at the time the ditch was constructed to make it compensatory; that the ditch has proven to be a paying one and will continue as such in the future. Complainants ask, therefore, that the amount deposited by them with the utility be ordered returned at once, together with interest at the rate of 8 per cent per annum.

Defendant in its answer denies that it is assured an adequate revenue from this lateral, basing its denial on the fact that the only crop of importance adaptable to the soil in this vicinity and needing irrigation is rice, and that the planting of rice will vary according to market conditions. It is alleged in the answer that the actual amount expended in connection with the construction of the lateral greatly exceeded the amount advanced by complainants, due to the extraordinary increase in the cost of labor and material that occurred during the war; that in order to convey a sufficient amount of water to the head of Crocker lateral to supply the consumers thereon it was necessary to enlarge a ditch known as "Richvale Colony 7" ditch, which empties into Crocker lateral, at a considerable additional expense.

Public hearings were held in this matter before Commissioner Devlin, at San Francisco, on December 15, 16 and 22, 1919, and January 12, 1920, and briefs were later filed.

From the evidence it appears that the historical occurrences are substantially as related in the complaint—not passing for the present upon complainants' views relative to the ditch from a remunerative standpoint.

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Much testimony was introduced pertaining to the cost of constructing the canal. Defendant's original estimate was $12,730, while the actual cost, it contends, will be in the neighborhood of $20,000.

Mr. Charles T. Tulloch, defendant's engineer and general manager, testified that the reason the actual cost of the work had so greatly exceeded the estimate was the unprecedented increase in the cost of labor and material due to the emergency created by the war. Mr. Tulloch in his testimony stated in justification of the apparent high cost of construction, that early in 1918, at the time the construction of the canal was proposed, the complainants had urged him, regardless of cost, to rush the work to completion in order that they might have water to irrigate the rice crops which they were preparing to plant to assist the government in the production of food. Therefore, although the soil was not in proper condition, he proceeded with the work of constructing the canal. Numerous obstacles were encountered, such as wet condition of the soil, scarcity and high price of labor and materials, thus greatly increasing the cost of the work. The contracts entered into between complainants and defendant provided that in the event that the cost of the canal exceeded the estimate, then complainants would advance such excess. However, it was stipulated by defendant at the hearing that complainants would not be asked to advance further amounts.

We now come to the question of revenues. The evidence shows that the income for the first two years the canal was in operation was as follows:

1918	$12,220 00
1919	23,973 60
*1920	27,958 00
Gross revenue	$64,151 60

*Estimate based upon applications for water for season of 1920 filed up to the time of the hearing herein.

It is argued by counsel for complainants that by deducting the expense of operating the Crocker lateral from the gross income the balance will constitute a net profit to the utility. In other words, the utility reports its operating expenses on the Crocker lateral for the years 1918 and 1919 as $1,002 and $3,532, respectively. Counsel estimates the expense for 1920 to be the same as in 1919. Therefore it is argued that by deducting the approximate operating expense for three years, or about $8,000, from the total income of approximately $64,000, the company will earn a net revenue in three years of $56,000.

The conclusions of plaintiffs' counsel are erroneous for the reason that he has only included the cost of operating the lateral itself, whereas the expense of conducting the entire system of the utility should properly have been taken into consideration.

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When this Commission established the present rates of this utility in its Decision No. 5227, *supra*, such rates were of course based on the assumption that each acre of land served by the utility should contribute its proper portion of the revenue which it was found the utility was entitled to receive. This portion, in the case of land devoted to the culture of rice, was found to be $7 for each acre. This rate was intended to yield to the company maintenance and operating expense and to provide an amount to be set aside each year to cover depreciation of its equipment and a proper return on its investment. It will be seen, therefore, that when the company receives $7 for a season's supply of water for the irrigation of an acre of rice land, it does not follow that by merely subtracting the expense of operating the immediate lateral the balance of the $7 is in any way net profit to the company. On the contrary the entire $7 is used up as explained above, in the general system costs of maintenance, operation, depreciation and interest.

Much discussion was had relative to the prospects of future revenues to be derived from the lateral. It was contended by complainants that the utility is assured of an income that will increase year by year.

Defendant, on the other hand, maintains that the amount of the future revenues is decidedly uncertain, due to the fact that the only crop which this soil is adaptable to and needing irrigation is rice and that the extent to which this industry will be engaged in in the future is decidedly problematical, and that the revenue that would be received from other crops than rice would be negligible. It was further contended by defendant that even though the rice industry were continuously engaged in, that on account of the obstacles encountered in the raising of rice it is the usual custom to allow the land to rest three years out of five in order to eradicate foul growth, such as water grass. Therefore it was contended that the best the company can expect is a revenue from the acreage served under this lateral three years out of five.

It was brought out during the proceedings that P. N. Ashley, the principal complainant herein, had arranged to obtain water for the irrigation of 100 acres of land which was then being irrigated by water received from the Sutter-Butte Canal Company, by installing a pumping plant and pumping water from a drainage ditch. Mr. Ashley, in his testimony, stated that he later hoped to obtain sufficient water to supply his entire place of approximately 400 acres from the same source. This would cut off from the defendant company an important portion of the revenue from this extension.

A copy of the form of contract which was entered into between complainants and the Sutter-Butte Canal Company is attached to the complaint. As heretofore stated, this contract provides in part that one-seventh of the annual revenue derived from the Crocker lateral

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shall be repaid to the consumer, such repayment to commence the second year after the date of the signing of the contract and to continue for four successive years. In other words, the utility agrees to return to the consumer one-seventh of the gross annual revenue derived from the lateral for four years, provided that the amount advanced has not been fully returned before the expiration of the four-year period. If on the other hand at the expiration of the said period the full amount has not been returned then the consumer is not entitled to further rebates. On April 30, 1919, the company filed with this Commission a revised set of rules and regulations in which was included Rule 3, which makes provision for the financing of extensions from the company's system. This rule was amended in certain respects on December 1, 1919, and as at present in effect provides as follows:

RULE 3. The company will make all reasonable enlargements or extensions of its ditches at its own expense, provided that if the proposed enlargement or extension is noncompensatory or the future use of water uncertain, the company may require that its estimated cost, including rights of way, be deposited with it by the prospective consumer. Any excess of deposit over cost will be returned to the depositor. If the cost of the enlargement or extension is greater than the deposit, the difference must be deposited by the consumer. The amount deposited and not previously returned shall be returned without interest at the rate of one-seventh of the gross revenue received from the extension, payable in annual installments until the entire amount deposited has been returned; the first installment being payable from the revenue derived from charges of the second year's operations. If the service to any consumer or consumers who have made such deposits is discontinued before the return of the deposit can be completed as above provided, the consumer or consumers shall not be entitled to any further payment of credits from the company for or on account of the deposits. After any such enlargement or extension of the company's ditch or ditches is completed, as above provided for in this paragraph "3," should an owner of land, who has not contributed towards the cost of such enlargement or extension, as herein provided, desire water for the irrigation of his land by or through such enlargement or extension, then, before serving the land of such owner with water, the company shall require such owner to first pay his just or fair share of the cost of such enlargement or extension for the benefit of those consumers who originally advanced and deposited with the company the cost of such enlargement or extension.

The provisions in the above rule relating to rebates are very similar to the conditions in the contracts entered into with the consumers, the latter conforming with the utility's rules in effect at the time. The rule, however, is more favorable to the consumers in that the repayments begin after the first year instead of after the second year, and further, in that such rebates continue until the entire amount is refunded. In the case of the contracts and the former rules the rebates were made only for four years.

The utility in its dealing with the complainants has already substituted this rule for the contracts heretofore mentioned and we understand is making rebates accordingly.

After carefully considering the evidence submitted in this connection, it is our belief that this entire matter is based on two questions: first, whether or not Rule 3 of the utility governing extensions of service is

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a reasonable rule; second, whether or not the rule in question should apply in this case.

It is a common mistake to presume that when a public utility is permitted by its rules and regulations filed with this Commission to require applicants for service to advance the cost of unremunerative extensions of mains or ditches to supply such applicants, that the utility is necessarily the sole beneficiary thereby. In this case we have a water system that has been dedicated to public use. If the system is wisely managed and economically operated the consumers will be benefited by being assured good service at reasonable rates. On the other hand, if the system were poorly managed, or if the company invested much capital unwisely in numerous nonpaying extensions the result would be an unprofitable system and a deficit would probably be shown in its operations. To make up such deficit the utility would eventually come before the Commission for an increase in rates. Hence it can be seen that if the utility were required to extend its system without considering the remuneration to be received, the consumers of the company would be the ultimate sufferers.

Of course a utility serving a given district, the larger portion of which is thickly populated, can usually afford to extend to consumers residing in less thickly populated sections of the district at its own expense. However, if the utility were required to extend too far we would have the situation suggested in *Clark* vs. *Hermosa Beach Water Company*, Volume 2, Opinions and Orders of the Railroad Commission of California, 149, page 152, referring to the effect of certain extensions on rates:

> If a utility were operating in a valley and was providing water by gravity flow to people in the valley and the utility were compelled to install a service at the top of a mountain, the expense of which installation and the cost of producing the service was twice the cost and expense on the rest of the system, manifestly, to charge this consumer on the top of the mountain the same rate as is charged in the valley would result in the necessity of tremendously increasing the rate in the valley in order to take care of the loss suffered in the service of the mountain top.

In the case of the Sutter-Butte Canal Company's Rule No. 3, the utility makes extensions to applicants for service at its own expense where the extension is estimated to be remunerative. Where it is considered that the extension will not be immediately a paying one or where there is some doubt about its continuing to be a paying one, then the applicant for service is required to advance the cost thereof to be returned in a portion of the annual revenues collected from such extension. If the extension proves to be a paying one, the amount advanced is soon returned and all that the consumer loses is the interest on the deposit. But the fact should not be lost sight of that the value of the land supplied with water will be greatly enhanced. We consider

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Rule No. 3, of the defendant utility, to be a just rule to both the utility and its consumers.

We will now consider the question of whether or not Rule No. 3 should apply to complainants herein as applicants for irrigation service. The Commission is not convinced, from the evidence in this case, that rice will continue to be planted to such an extent in the future as it was during the years 1918, 1919 and 1920. Let us presume that the planting of rice on the lands under this extension should be totally discontinued. In such an event the utility may be called upon to furnish a negligible amount of water for such purposes as grain irrigation, sprouting of water grass, etc. The revenues that would be collected from such sources would probably be insufficient to pay operating expenses on the extension. Again, we have the case of complainant Ashley pumping water from a drainage canal to irrigate a large portion of his place, thereby discontinuing the supply of the defendant utility, and his statement to the effect that it is his intention to discontinue the supply of the Sutter-Butte Canal Company altogether. There is nothing in the record indicating that other consumers intend to follow this course, but the possibility of their so doing is of course suggested.

We believe that the interests of the consumers of the Sutter-Butte Canal Company will best be served by the utility being permitted to rebate the amount advanced by the complainants in the manner provided by the company's rules. The complainants would not appear to be unduly burdened by the utility being permitted to follow this course inasmuch as it is shown hereinbefore that if the revenues from the extension should continue as they did during 1918, 1919 and 1920, the total amount advanced by complainants will have been returned in about three years, the only loss to complainants being interest on the money so advanced. If the revenues should decline then, of course, a greater length of time would elapse before the money will have been returned. In either event, no injustice is done to either party, and the application of such a principle makes for a stabilization of the financial affairs of the utility, which, in turn, is reflected in a dependable and proper service to the consumers.

ORDER.

Complaint having been made by P. N. Ashley, Harry A. Dutton, Shelly Lee, C. H. Johnson, G. G. Blymer, Mary S. Gebhart, and Mrs. R. B. Moore, against Sutter-Butte Canal Company, public hearings having been held and the matter submitted and ready for decision;

It is hereby ordered, that said complaint be and it is hereby dismissed.

Dated at San Francisco, California, this thirtieth day of July, 1921.

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DECISION No. 9295.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND PLEDGE BONDS UNDER ITS FIRST AND REFUNDING MORTGAGE; ALSO TO ISSUE AND SELL BONDS UNDER SAID MORTGAGE.

Application No. 7019.

Decided July 30, 1921.

Guy C. Earl and *Chaffee E. Hall*, by *Chaffee E. Hall*, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

In this application, as amended, Great Western Power Company of California asks permission to issue and sell at 90 per cent of face value, plus accrued interest, $1,000,000 of its Series B first and refunding mortgage sinking fund gold bonds, and to use the proceeds from the sale thereof to reimburse its treasury in part for construction expenditures made prior to June 30, 1921, that have not been paid for by the issue of stock, bonds or notes.

Pending the delivery of permanent Series B bonds, applicant proposes to issue and sell interim certificates.

The record herein shows that since June 1, 1919, and prior to June 30, 1921, applicant has expended $16,073,814.64 for the construction, extension and completion of its facilities as follows:

For the Caribou development	$12,453,079 51
For the 165,000-volt transmission line from the Caribou plant to Valona	2,527,051 00
For other additions and betterments	1,581,782 44
Total	$16,561,912 95
Less amount represented by notes for materials	488,098 31
Total	$16,073,814 64

The petition shows that $14,516,817.50 of this amount has been already provided for with proceeds from the sale of securities heretofore authorized by the Railroad Commission and that $1,556,997.14 that has been expended from income, and for which applicant now seeks reimbursement in part by the issue of $1,000,000 of bonds herein applied for, represents construction expenditures that have not yet been capitalized.

L. A. Reynolds, applicant's auditor and assistant treasurer, testified that applicant on July 1, 1921, was entitled under and by the terms and provisions of its first and refunding mortgage, to issue $560,000 of the $1,000,000 of bonds herein applied for. Mr. Reynolds further testified that it was his belief that applicant's earnings should be sufficient to justify the issue of the remaining $440,000 of bonds by July 30,

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1921. In view of this, the order herein will provide that $440,000 of the $1,000,000 of bonds be issued, sold and delivered only when and as authorized by the Railroad Commission in a supplemental order or orders upon the showing by applicant that it is entitled to their issue under the terms of its first and refunding mortgage.

From Exhibit "B" attached to the petition it appears that applicant has made arrangements with E. H. Rollins and Sons for the sale of $250,000 of the Series B bonds at 90, and accrued interest, and that it has granted an option for the purchase of the remaining $750,000 of bonds at the same price. The agreement with E. H. Rollins and Sons further provides for the issue of temporary certificates, pending the preparation and delivery of permanent bonds.

Applicant on June 30, 1921, reported outstanding $27,500,000 of common stock; $2,498,084.21 of preferred stock; $51,351,500 of bonds; and $1,662,960.81 of notes. Corporate surplus as of the same date was reported at $4,767,813.30. For the six months' period ending June 30, 1921, it reports its revenues and expenses and corporate surplus as follows:

Operating revenues		$3,074,679 22	
Operating expenses		1,276,826 36	
Net operating revenues			$1,797,852 86
Nonoperating revenues:			
Miscellaneous rent revenues		$16,885 75	
Interest and dividend revenues		535,387 83	
Miscellaneous nonoperating revenues		6,540 00	
Total nonoperating revenues			558,813 58
Gross corporate income			$2,356,646 44
Deduct—			
Uncollectible bills		$6,000 00	
Nonoperating revenue deductions:			
Rent expenses	$11,020 04		
Nonoperating taxes	5,635 86	16,655 90	
Interest accrued on funded debt		1,141,043 75	
Other interest deductions		84,321 31	
Rent deductions:			
Rent for lease of other electric plants	$122,821 27		
Rent for conduits, poles and other supports	1,058 03		
Rent for instruments and equipment	160 00		
Miscellaneous rent deductions	11,726 00	135,765 30	
Amortization of debt discount and expense		70,212 23	
Total deductions			1,453,998 49
Balance carried to corporate surplus			$902,647 95
Miscellaneous additions to surplus for the year			72,197 36
			$974,845 31

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Deductions from surplus for the year:		
Dividends on outstanding stock	$292,245 47	
Miscellaneous deductions	38,462 68	330,708 15
Net surplus for year to date		$644,137 16
Corporate surplus, balance December 31, 1923		4,123,676 14
Corporate surplus, June 30, 1921		$4,767,813 30

I believe the application should be granted and herewith submit the following form of order:

ORDER.

Great Western Power Company of California having applied to the Railroad Commission for permission to issue $1,000,000 of its Series B first and refunding mortgage bonds, a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Great Western Power Company of California be and it is hereby authorized to issue and sell on or before March 31, 1922, at not less than 90 per cent of face value, plus accrued interest, $1,000,000 of its Series B 7 per cent first and refunding mortgage sinking fund gold bonds.

The authority herein granted is subject to further conditions as follows:

1. The proceeds from the sale of bonds herein authorized shall be used by applicant to finance in part the construction expenditures referred to in this application.

2. Four hundred forty thousand dollars of the bonds herein authorized shall be issued, sold and delivered only as hereafter authorized by the Railroad Commission in a supplemental order or orders upon the showing by applicant that it is entitled to issue said $440,000 of bonds under and by the terms and provisions of its first and refunding mortgage.

3. Applicant may, pending preparation and delivery of said Series B bonds, issue and sell temporary certificates, as provided in the agreement attached to the petition herein, such temporary certificates to be hereafter exchanged for the Series B bonds herein authorized.

4. The authority herein granted shall not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

5. Great Western Power Company of California shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad

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Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of July, 1921.

DECISION No. 9305.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE OF BONDS, THE EXECUTION OF A MORTGAGE OR DEED OF TRUST TO SECURE THE SAME, AND THE EXECUTION AND DELIVERY OF TEMPORARY CERTIFICATES TO BE THEREAFTER EXCHANGED FOR SUCH BONDS.

Application No. 6574.

Decided July 30, 1921.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 8731, dated March 10, 1921, as amended, authorized The California-Oregon Power Company, among other things, to issue and sell at not less than 95 per cent of face value, plus accrued interest, $1,849,000 of interim certificates and to issue in exchange for such interim certificates $1,849,000 of first and refunding mortgage bonds, subject among others, to the condition that the proceeds from the sale of such bonds be expended only as authorized by the Railroad Commission in a supplemental order or orders; and

Whereas, the Railroad Commission by Decision No. 9190, dated June 30, 1921, authorized applicant to use $824,900 of such proceeds to pay in part floating indebtedness referred to in applicant's first supplemental petition in the above entitled matter; and

Whereas, The California-Oregon Power Company reports that it proposes to use the remaining $932,650 of the proceeds from the sale of said $1,849,000 of bonds to pay construction expenditures and reorganization expenses as follows:

1. To complete the Link River dam and make provisions for storage in the Upper Klamath Lake	$400,000 00
2. To install a power plant on Link River to utilize present water rights and provide immediately needed power (approximately)	300,000 00
3. Additions to, and betterments of the transmission and distribution system of the company in 1921, estimated at $300,000, $145,000 of which will come from depreciation reserve and sinking fund (approximately)	155,000 00
4. Engineering and preliminary work at Prospect, and engineering and construction at Copco necessary toward the installation of a second unit in an enlargement of the Copco power station and reorganization expense (approximately)	77,650 00

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and

Whereas, applicant reports in its third supplemental petition herein that it has expended during the five months ended May 31, 1921, the sum of $32,826.17 toward the construction of the Link River dam, and the sum of $136,319.71 for additions and betterments to its transmission and distribution system; making a total of $169,145.88 of construction expenditures for which it now asks permission to reimburse itself through proceeds obtained from the sale of bonds; and

Whereas, applicant further asks permission to expend in addition to the $169,145.88, not exceeding $150,000 of the proceeds from the sale of the bonds for the payment, in part, of the foregoing expenditures; and

Whereas, the reported expenditures have been examined by the engineering department of the Railroad Commission and appear to be proper capital charges, and the Commission being of the opinion that applicant's request should be granted: now, therefore;

It is hereby ordered, that the order in Decision No. 8731, dated March 10, 1921, be and it is hereby modified so as to permit The California-Oregon Power Company to expend an additional $319,145.88 of the proceeds realized from the sale of the bonds authorized to be issued and sold by said decision.

The authority herein granted is subject to conditions as follows:

1. One hundred sixty-nine thousand one hundred forty-five dollars and eighty-eight cents of the proceeds herein authorized to be expended, shall be used by applicant to reimburse its treasury for the construction expenditures made since January 1, 1921, and prior to May 31, 1921, and reported in the third supplemental petition in this proceeding.

2. One hundred fifty thousand dollars of the proceeds herein authorized to be expended shall be used by applicant to pay in part the construction expenditures described in this supplemental order; provided, that in no case shall the money expended out of said $150,000 exceed the aggregate amount to be expended as hereinabove set forth; and provided further that no moneys shall be used to pay reorganization expenses until a detailed statement thereof has been filed and the payment thereof authorized by the Railroad Commission.

3. Applicant shall file with the Railroad Commission detailed statements showing the purposes for which said $150,000 was expended.

It is hereby further ordered, that the order in Decision No. 8731, dated March 10, 1921, as amended, shall remain in full force and effect, except as modified by this third supplemental order.

Dated at San Francisco, California, this thirtieth day of July, 1921.

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DECISION NO. 9306.

IN THE MATTER OF THE APPLICATION OF ESCALON WATER AND LIGHT COMPANY, FOR PERMISSION TO ISSUE AND ORDER FOR SAME, ONE HUNDRED THIRTY DOLLARS OF STOCK IN LIEU OF STOCK HERETOFORE ISSUED WITHOUT PERMISSION.

Application No. 7014.

Decided July 30, 1921.

F. S. Thornton, for Applicant.

MARTIN, *Commissioner*.

ORDER.

Whereas, Escalon Water and Light Company, in this application, has applied to the Railroad Commission for permission to issue $130 of its common capital stock in lieu of stock of like amount heretofore illegally issued without an order from the Railroad Commission; and

Whereas, it appears that the $130 of stock was originally issued to pay in part the cost of extensions, additions and betterments referred to in this application, and that applicant, through inadvertence and with no intent to evade the provisions of the Public Utilities Act, issued stock without obtaining an order from the Railroad Commission,

And, a public hearing having been held, it appearing to the Railroad Commission that applicant's request should be granted: now, therefore;

It is hereby ordered, that Escalon Water and Light Company be and it is hereby authorized to issue at par on or before September 30, 1921, $130 of its common stock for the purpose of paying in part the cost of the extensions, additions and betterments referred to in this application;

Provided, that the stock heretofore illegally issued without an order from the Railroad Commission shall be returned to applicant's treasury and canceled, and the stock herein authorized, be issued in lieu thereof; and

Provided, further, that Escalon Water and Light Company keep such record of the issue and disposition of the stock herein authorized as will enable it to file, on or before thirty days from such issue, a verified statement as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of July, 1921.

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DECISION NO. 9312.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR PERMISSION TO SELL CERTAIN OF ITS EQUIPMENT CONSISTING OF ROLLING STOCK AND TO MORTGAGE CERTAIN OF ITS REAL ESTATE.

Application No. 6933.

Decided August 4, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission having by Decision No. 9242, dated July 16, 1921, authorized San Diego and Arizona Railway Company to assume the obligations under a certain proposed lease agreement and equipment trust agreement and having authorized the issue of equipment trust certificates for the purpose of enabling applicant to secure the use of additional equipment, subject among others, to the condition that none of the equipment trust certificates be delivered until the Railroad Commission by supplemental order has authorized the execution of the agreement securing the payment of the equipment trust certificates.

And San Diego and Arizona Railway Company having filed with the Commission a copy of its proposed lease agreement and equipment trust agreement and also a copy of its proposed mortgage securing in part the payment of equipment trust certificates, the issue of which the Commission has heretofore authorized, and said lease agreement and equipment trust agreement and said mortgage being in satisfactory form;

It is hereby ordered, that San Diego and Arizona Railway Company be and it is hereby authorized to execute a lease agreement, an equipment trust agreement, and a mortgage substantially in the same form as the lease agreement, equipment trust agreement, and mortgage filed in this proceeding, provided,

That the authority herein granted to execute a lease agreement, an equipment trust agreement, and a mortgage is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said lease agreement, equipment trust agreement and mortgage as to such other legal requirements to which said lease agreement, equipment trust agreement and mortgage may be subject.

It is hereby further ordered, that the order in Decision No. 9242, dated July 16, 1921, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this fourth day of August, 1921.

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DECISION NO. 9319.

IN THE MATTER OF THE APPLICATION OF JOSEPH HELD TO LEASE TO LOUIS LAYKO THE RIGHT TO OPERATE AUTO STAGES IN CONNECTION WITH THE OPERATIVE RIGHT OF JOSEPH HELD ON A CERTAIN SCHEDULE FILED WITH THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Application No. 7045.

Decided August 5, 1921.

AUTO STAGES—OPERATIVE RIGHTS—LEASES.—In denying the application of a holder of an operative right to lease certain runs, the Commission held that an agreement which results in dividing the responsibility of a legitimate holder of an operative right and without according any additional or improved service, is against public interest and should not be approved.

BY THE COMMISSION.

ORDER.

In this proceeding Joseph Held has filed a joint application with Louis Layko in which he applies to the Railroad Commission for permission to lease to the latter named applicant the right to operate a so-called "run" between Oakland and San Jose for a period of one year at a monthly rental of $150.

Applicant Held is at the present time the holder of an operative right permitting the operation of an automobile passenger stage line between the cities of Oakland and San Jose, California, such operative right having been secured by Joseph Held through operation in good faith prior to May 1, 1917, and continuously since that date.

There are at the present time associated together for the purposes of effecting a uniform time schedule seven individuals all of whom hold operative rights between the cities of Oakland and San Jose and in accordance with a verbal agreement each of such seven individuals operate, at specified periods, what are designated as "runs" between the cities above named.

Under the present application applicant Held proposes to lease to applicant Layko the right to operate two round trips per day under his certificate. Applicant Held proposes at the same time to retain the right to operate other "runs" which he controls also under the same certificate. The proposed agreement, if approved by the Railroad Commission, would, in effect, be establishing an additional restricted operative right in addition to the seven existing operative rights between the cities of Oakland and San Jose, while giving to the public no improvement whatsoever in present service conditions, but permitting the lessor under the proposed agreement to benefit from his existing operative right to the extent of the monthly rental stated in such proposed lease, without incurring the expense of operation or assuming

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any of the obligations incumbent upon this class of common carriers with respect to the leased "runs."

The Railroad Commission is of the opinion that any agreement as herein proposed, which results in dividing the responsibility of a legitimate holder of an operative right and without according any additional or improved service, being intended only to operate to the profit of the holder of an operative right, is against public interest and should not receive our approval. The application will be denied.

It is hereby ordered, that the above entitled application be and the same hereby is denied.

Dated at San Francisco, California, this fifth day of August, 1921.

DECISION No. 9323.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA WHARF AND WAREHOUSE COMPANY TO INCREASE RATES.

Application No. 6808.

Decided August 5, 1921.

BY THE COMMISSION.

OPINION.

This is a proceeding in which the California Wharf and Warehouse Company made application under sections 15 and 63 of the Public Utilities Act for permission to publish on one day's notice certain increases in rates for receiving, weighing and loading of grain and other products at the applicant's warehouse at Brentwood.

A public hearing was held before Examiner Satterwhite, Friday, June 24, 1921, and the matter is now ready for opinion and order.

The evidence showed that the applicant has been unable to operate its warehouse at Brentwood profitably, in fact, it was shown there was not sufficient revenue to pay ordinary operating expenses. For the calendar year ending December 31, 1920, the total operating revenue was $3,599.14 and the expenses $4,683.82, showing an actual loss of $1,064.68 and these figures do not take into consideration either a return upon the investment or a depreciation on property.

It was estimated that the proposed rates applied to business in 1921, based on the tonnage handled in 1920, would produce a revenue of $458.10 over and above the amount of revenue accruing in 1921. Owing to the fact that the warehouse business is incidental to other and larger interests of the applicant, it is willing to forego any return on its investment and is satisfied to reduce its operating loss as indicated. For these reasons, we conclude that this application should be granted.

ORDER.

It is hereby ordered, that the California Wharf and Warehouse Company be and the same is hereby authorized to increase its rates in

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accordance with the application in this proceeding upon five (5) days notice to the Commission and the public, publication and filing to be made in the regular manner.

Dated at San Francisco, California, this fifth day of August, 1921.

DECISION No. 9330.

IN THE MATTER OF THE APPLICATION OF S. B. COWAN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT AND TRUCK SERVICE BETWEEN LOS ANGELES AND HUNTINGTON PARK, NORTHAM, OLINDA, OLIVE, CYPRESS, EL MODENA, DELHI AND SUGAR FACTORY.

Application No. 6570.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION OF THE EXTENT OF OPERATIONS AND CHARACTER OF SERVICE RENDERED BY S. B. COWAN AS A TRANSPORTATION COMPANY.

Case No. 1622.

Decided August 8, 1921.

AUTO TRUCK SERVICE—TIME SCHEDULE.—Truck lines are required to operate upon published schedules, so that shippers may know when goods may be shipped or received.

TARIFF—INCONSISTENCIES.—A tariff must be such as to avoid inconsistencies and confusion between different classes.

CLAIMS—ADJUSTMENTS.—Applicant directed to inaugurate a method of adjusting claims, or refer them to the Commission for adjustment in case of doubt.

Bishop and Wellington and *H. W. Kidd*, for Applicant, in Application No. 6570.
W. H. Kidd, for S. B. Cowan, in Case No. 1622.
Frank Karr, *J. D. Taggart* and *W. B. Percgay*, for Pacific Electric Railway.
B. J. Cross, for Southern Pacific Company.
T. A. Woods, for American Railway Express Company.
Joe Burke, for L. L. Smith.

BY THE COMMISSION.

OPINION.

By Application No. 6570, S. B. Cowan, operating under the fictitious name of Triangle, Orange County and Santa Ana Express, seeks authority to add to his present service, freight service between Los Angeles and Olinda, Olive, El Modena, Delhi and Sugar Factory.

Public hearings upon the application were held by Examiner Westover in Santa Ana and Los Angeles.

At the first hearing in Santa Ana, a doubt having arisen as to the regularity and nature of the present service of applicant, most of which was inaugurated prior to May 1, 1917, and prior to the time when the Commission was given jurisdiction over transportation companies, the Commission, upon its own motion, instituted an investigation to determine the nature and extent of Mr. Cowan's operations on May 1, 1917, and subsequent thereto, and to determine whether his service is reasonable and adequate.

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At the Los Angeles hearing it appeared that one shipper had three claims for small amounts, representing double charges on shipments which had been prepaid and also collected from the consignee; and two claims for breakage and damage to goods in transit. These claims had been pending unadjusted for a considerable time, and after considerable effort and loss of time on the part of the consignee, two of the claims for overcharge appear to have been finally paid by Mr. Cowan's driver out of his own pocket, there being no testimony indicating that the driver was subsequently recompensed.

Pending the second hearing, Mr. Cowan and the Commission's service inspection department checked over his present service very carefully and prepared a map and statement showing the service given on three separate routes by which points in Mr. Cowan's territory are regularly served by his trucks. It appears from this check and his testimony at the hearing that points shown on his tariff, C. R. C. No. 1, effective September 30, 1918, with the exception of Tustin, are all served regularly. By leave granted at the hearing, this point was dropped from his tariff and present application amended by leave to omit the proposed service to Huntington Park, already served, to Northam and to Cypress.

Testimony was presented tending to show the need of service at Olinda, El Modena and Olive, three points which are not served by any truck line. El Modena is served by the Southern Pacific's Tustin branch and Olive and Olinda by the Santa Fe's branch line, north from Olive, but the rail service is infrequent and without facilities for pick-up and delivery, which are included in applicant's proposed service. Delhi and Sugar Factory do not appear to need additional service, and the application as to those points will be denied.

It developed at the hearing that Mr. Cowan had never filed a time schedule with the Commission and claimed that he did not know this was necessary in the case of a freight line. It is of course desirable that shippers may know when goods may be shipped or received, so they may plan accordingly, and this is the ground for the rule requiring such filing. Truck lines are required to operate upon published schedules, although the exigencies of the business may at times make it impossible to keep to the schedule exactly, as, for instance, when trucks break down.

Mr. Cowan should at once file proper schedules and inaugurate a method of promptly and satisfactorily adjusting all claims, or refer them to the Commission for adjustment when an honest doubt arises as to the interpretation or application of tariffs, classification, rules or regulations.

It also developed at the hearing, incidentally, that confusion exists in C. R. C. No. 1 as to application of minimum rates. By Rule 5 of the tariff the minimum charge for a single shipment is 25 cents for 30

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pounds or less; 35 cents for shipments weighing 31 to 80 pounds, and "50 cents thereon," while under section 3, Commodity Rates, there is a provision covering "department store packages, minimum 20 cents," and "department store packages 40 cents per 100 pounds." These inconsistencies, with any others which may develop by careful study of the tariff on the part of Mr. Cowan and his advisers, should be eliminated by preparation and filing of a new tariff.

ORDER.

A public hearing having been held upon the above entitled case and application, the matter being submitted and ready for decision:

The Railroad Commission hereby finds that, so far as appears from the testimony, S. B. Cowan, operating freight and express truck service between Los Angeles and Santa Ana and intermediate points, under the fictitious name of Triangle, Orange County and Santa Ana Express, is rendering reasonably adequate service to all of the points mentioned in his tariff, C. R. C. No. 1, except to Tustin, and with reasonably adequate facilities therefor.

The Railroad Commission hereby declares that public convenience and necessity require the operation by said S. B. Cowan of a freight and express truck service between Los Angeles and points now served by him, as shown in his tariff C. R. C. No. 1, on the one hand, and Olinda, El Modena and Olive on the other hand.

The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

No vehicle may be operated in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under a contract or agreement satisfactory to the Railroad Commission;

It is hereby ordered, that applicant shall within twenty days from the date hereof file with the Railroad Commission his schedules and tariffs covering said proposed service, which shall be in addition to proposed schedule and tariff accompanying the application, and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within ninety days from date hereof, unless time to begin operating is extended by formal supplemental order.

The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

It is hereby further ordered, that said S. B. Cowan be and he is hereby directed to file with the Commission within twenty days a time schedule showing the time of arrival and departure at each town on each route and each schedule, and to operate on such schedules as nearly as may be;

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and a statement showing the several routings of his trucks now serving in the territory between Los Angeles and Santa Ana and the points hereinabove authorized to be served; and that within twenty days he file revised tariff clearly showing rates and minimum charges, classifications, rules and regulations applying to traffic moving over his said routes.

It is hereby further ordered, that said S. B. Cowan at once proceed to settle all just claims of his shippers for overcharges now pending undetermined, and hereafter use all reasonable endeavor to promptly adjust and pay all just overcharge claims.

Dated at San Francisco, California, this eighth day of August, 1921.

DECISION NO. 9331.

IN THE MATTER OF THE APPLICATION OF A. B. BLAND, OWNER OF BLAND STAGES, FOR AN ORDER GRANTING PERMISSION TO INCREASE FARES BETWEEN HOLTVILLE AND EL CENTRO, CALIFORNIA.

Application No. 6809.

Decided August 8, 1921.

BY THE COMMISSION.

ORDER.

This is a proceeding filed May 7, 1921, in which A. B. Bland, operating under the name of Bland Stages, carrying passengers by auto stage between Holtville and El Centro, California, makes application under Rules 10 and 11 of General Order No. 51 for authority to establish a one-way fare of 35 cents instead of the present fare of 50 cents between Holtville and Mellowland, a reduction of 15 cents; a fare of 35 cents instead of 50 cents between Mellowland and El Centro, a reduction of 15 cents; a fare of 60 cents instead of 50 cents, an increase of 10 cents, between Holtville and El Centro, and to eliminate the present round trip fare of 90 cents between Holtville and El Centro.

Exhibit "A," filed with the original application, is a statement of revenue and expenses for a period of eight months, July, 1920, to February, 1921, inclusive, and shows an operating deficit of $2,936.33. Exhibit "B," filed with the application, shows a travel check for July and August, 1920, and January and February, 1921, indicating that the adjustment of rates requested, based on these four months, would still result in an annual deficit.

Set up in the operating expense is an item of interest in the amount of $462 covering eight months which should not be included in these expenses at all. There is also an item of $200 salary for the applicant. We believe $200 a month is excessive for the management of a business with no greater gross revenue than is here shown. Using the certified

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figures given by Exhibits "A" and "B," attached to and made a part of the application, it is apparent that if these changes in rates, increases and reductions, were authorized, there would still be a net loss. Eliminating the items of interest and the salary allowed the owner, and, further, taking into consideration that the prices of gasoline, tires and other materials have recently decreased, we are of the opinion that the granting of this application will meet operating expenses and yield some return on the investment.

The Commission is in receipt of a communication from the Holtville Commercial Club, advising that it approves the proposed changes; it also submitted copy of a resolution passed by the club indorsing the application and urging that the Commission grant the same upon the grounds that there is need for more frequent service and better equipment which, according to investigation, could not be secured under the passenger fares now in effect.

We believe this is a matter in which a public hearing is not necessary and that this application should be granted.

It is hereby ordered, that this application should be and the same is hereby granted.

Dated at San Francisco, California, this eighth day of August, 1921.

DECISION NO. 9333.

IN THE MATTER OF THE APPLICATION OF CITRUS BELT GAS COMPANY TO SELL, AND OF SOUTHERN CALIFORNIA GAS COMPANY TO BUY, CERTAIN PROPERTY IN THE CITIES OF REDLANDS, COLTON AND SAN BERNARDINO, IN SAN BERNARDINO COUNTY, AND IN THE CITY OF CORONA, IN RIVERSIDE COUNTY, STATE OF CALIFORNIA; OF SOUTHERN CALIFORNIA GAS COMPANY FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISES GRANTED BY SAID CITIES, OR APPLIED FOR; FOR THE APPROVAL OF A CERTAIN CONTRACT ENTERED INTO BETWEEN CITRUS BELT GAS COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY, AS OF DATE JUNE 14, 1921, AND OF THE SOUTHERN CALIFORNIA GAS COMPANY FOR PERMISSION TO ISSUE BONDS PURSUANT TO SAID CONTRACT.

Application No. 6917.

Decided August 8, 1921.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission having by Decision No. 9238, dated July 15, 1921, authorized Southern California Gas Company to issue $365,000 of its first and refunding mortgage bonds, due March 1, 1951, and the mortgage securing the payment of said bonds providing that $365,000 of the company's first mortgage bonds shall be deposited with the trustee

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under the first and refunding mortgage as a condition precedent to the issue of the $365,000 of first and refunding mortgage bonds, and applicant having requested the Commission to modify its order of July 15, 1921, accordingly, and the Commission having considered applicant's request and being of the opinion that it should be granted,

It is hereby ordered, that the order of the Commission in Decision No. 9238, dated July 15, 1921, be and it is hereby modified so as to permit Southern California Gas Company to issue $365,000 of first and refunding mortgage thirty-year 7 per cent gold bonds due March 1, 1951, and to secure in part the payment of said bonds by the issue and deposit of $365,000 of applicant's first mortgage bonds with the trustee under applicant's first and refunding mortgage.

It is hereby further ordered, that the order in Decision No. 9238, dated July 15, 1921, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this eighth day of August, 1921.

DECISION No. 9338.

IN THE MATTER OF THE APPLICATION OF THE CITY OF PALO ALTO FOR AN ORDER OF THE RAILROAD COMMISSION GRANTING A PERMANENT PERMIT TO CONSTRUCT A GRADE CROSSING AT OR NEAR THE INTERSECTION OF PALO ALTO AVENUE AND ALMA STREET.

Application No. 3708.

Decided August 9, 1921.

Norman E. Malcolm, for Applicant.
C. P. Cooley, for County of Santa Clara.
H. H. Gogarty, for Southern Pacific Company.
D. I. Howard, in propria persona.

BENEDICT, *Commissioner.*

SUPPLEMENTAL OPINION.

In Decision No. 5484, dated June 18, 1918, in the above entitled proceeding, this Commission authorized the construction of a temporary grade crossing at or near the intersection of Palo Alto avenue and Alma street over the tracks of Southern Pacific Company, the crossing actually being located in the county of Santa Clara, unincorporated, the authorization therein granted expiring two years from the date of decision.

In this present proceeding the city of Palo Alto asks for an order granting the right to a permanent grade crossing at this same location.

By Decision No. 806, dated July 23, 1913, in Application No. 352, permission was denied the county of Santa Clara to construct a grade crossing at this location, the Commission holding that if a crossing were here desired it should be by means of a subway under the tracks. The

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order also provided for a division of the expense of constructing the subway, which, however, has not been installed.

A public hearing was held at Palo Alto on June 23, 1921, and the matter was submitted. At this hearing the county of Santa Clara represented that the temporary crossing had proven to be a safe one during the war when the many soldiers who were stationed at Camp Fremont used the crossing—a traffic in excess of the present traffic—and argued for the permanent crossing at grade.

Witnesses for the city of Palo Alto followed this same line of argument and the city's representative brought out the fact that while the city has issued bonds in the amount of $9,500 to pay its proportion of the expense of constructing the subway, because of the increased cost of labor and materials the cost of the subway had risen from approximately $28,000 to $55,000, the city was no longer in a position to assume its proportion of the cost, nor was it willing to expend about twice as much. Other evidence was introduced dealing with the relocation of roads and opening up new tracts for home building in the vicinity.

The Southern Pacific Company stated that the original estimate had now increased to about $55,000 and suggested, in view of the falling market and some uncertainty in the future use of the crossing, due to the construction of roads and homes in the vicinity, that the temporary crossing be continued for two years, at the expiration of which the matter might be finally determined. The railroad also stated that two shifts of flagmen were employed at this crossing at an expense of $194 each month.

Mr. D. I. Howard stated that he had purchased the property at the corner of Palo Alto avenue and Alma street and wished to be placed on record as opposing the subway because of possible damages to his property because of the lowering of the streets at their intersection.

Witnesses for both the city and the railroad were asked where, in their judgment, a subway in Palo Alto would be of most benefit to most people, and in reply stated at or near University avenue.

The Commission's engineer asked for statistics showing both the vehicular and railroad traffic over the crossing. These data were to be, and have since, been furnished. The following tabulation gives a check of the traffic at both Palo Alto avenue and University avenue grade crossings:

Check of Traffic at Palo Alto Avenue, Palo Alto.

For 24-hour period starting 6 a.m. June 26—Sunday:		For 24-hour period starting 6 a.m. June 27—Monday:	
Automobiles	212	Automobiles	243
Motorcycles	0	Motorcycles	7
Teams	18	Teams	30
Pedestrians	86	Pedestrians	85
Bicycles	13	Bicycles	73
Total	329	Total	438

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Check of Traffic at University Avenue, Palo Alto.

For 24-hour period starting 6 a.m. June 26—Sunday:		For 24-hour period starting 6 a.m. June 27—Monday:	
Automobiles	4095	Automobiles	3840
Motorcycles	60	Motorcycles	103
Teams	81	Teams	32
Pedestrians	1493	Pedestrians	761
Bicycles	415	Bicycles	351
Total	6144	Total	5087

The train movements are 24 regular passenger trains each way each 24 hours, or a total of 48, and 4 freight trains each way per day, or a total of 8, making a grand total of 56 train movements per day through Palo Alto and across these crossings.

I am impressed both with the statement of witnesses and the traffic counts to the effect that University avenue seems to be the location of a subway which would best suit public convenience and necessity and believe that it might possibly be unwise to expend $55,000 at Palo Alto when possibly this amount would do much more good if expended in some other location. The traffic counts at Palo Alto avenue show a light traffic, about eight (8) per cent of that of University avenue.

From the testimony given concerning proposed roads in the vicinity of the crossing it appears quite certain that within a reasonably short time the present uncertainty as to the location of the proposed roads and the traffic over them will be cleared.

Under these circumstances the logical solution seems to permit the use of the present crossing at grade for approximately two years.

The following form of order, and a similar order in Application 352, is recommended:

SUPPLEMENTAL ORDER.

City of Palo Alto having asked for an order making permanent the authority to establish a grade crossing across the tracks of Southern Pacific Company at or near their intersection with Palo Alto avenue and Alma street, Palo Alto, as shown on the maps and exhibits, a public hearing having been held and the matter having been submitted,

It is hereby ordered, that county of Santa Clara be and the same is hereby authorized to maintain until July 1, 1923, but not thereafter, that certain grade crossing authorized in Decision 5484 across the tracks of Southern Pacific Company at or near the intersection of Palo Alto avenue and Alma street, Palo Alto.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission.

Dated at San Francisco, California, this ninth day of August, 1921.

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DECISION NO. 9339.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF PREFERRED STOCK OF THE PAR VALUE OF ONE HUNDRED ELEVEN THOUSAND DOLLARS.

Application No. 7009.

Decided August 9, 1921.

Chickering and Gregory, by *Allen L. Chickering*, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

Western States Gas and Electric Company asks permission to issue and sell $111,000 of its 7 per cent cumulative preferred stock to reimburse its treasury or liquidate indebtedness incurred by it by making payments into its sinking fund. The company intends to sell the stock at par but asks permission to use, for the sale thereof, not exceeding 10 per cent of the proceeds.

Applicant reports that since December 1, 1919, it has paid $344,400 into the sinking fund of its first and refunding mortgage bonds and $62,250 into the sinking fund of the American River Electric Company bonds and that the money so paid to the various trustees has been used to retire $511,000 of bonds. In asking permission to issue stock to refund, in part, these sinking fund payments, applicant emphasizes the fact that the sinking fund provision of its first and refunding mortgage is extremely burdensome, requiring the company to pay the trustee, on the first day of June and December of each year an amount equivalent to $1\frac{3}{4}$ per cent of the first and refunding mortgage bonds certified and issued, including bonds pledged as collateral and bonds redeemed.

As of May 31, 1921, applicant reported $7,189,500 of first and refunding bonds issued, consisting of $1,724,000 pledged as collateral, $4,206,500 actually outstanding in the hands of the public and $1,242,000 redeemed, and $17,000 in the treasury of the company.

The Commission heretofore, by Decision No. 7276, dated March 17, 1920, and by Decision No. 8791, dated March 28, 1921, has authorized applicant to issue stock to refund part of its sinking fund payments.

I believe the application should be granted, it being understood, however, that the granting of such permission in no way commits the Commission to a policy of granting, in the future, permission of a similar nature either to applicant or to any other utility.

I herewith submit the following form of order:

ORDER.

Western States Gas and Electric Company having applied to the Railroad Commission for permission to issue stock, a public hearing

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having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required for the purpose specified in this order and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to issue and sell at not less than par $111,000 of its 7 per cent cumulative preferred stock and to use the proceeds to reimburse its treasury because of surplus earnings used to meet sinking fund payments or to pay indebtedness incurred in making such sinking fund payments.

The authority herein granted is subject to further conditions as follows:

1. Applicant may use in the sale of the stock herein authorized, not exceeding 10 per cent of the proceeds.

2. The authority herein granted to issue stock shall apply only to such stock as may be issued, sold and delivered on or before December 31, 1921.

3. Western States Gas and Electric Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this ninth day of August, 1921.

DECISION NO. 9340.

IN THE MATTER OF THE APPLICATION OF CITIZENS LAND AND WATER COMPANY OF UPLAND, FOR AN ORDER AUTHORIZING RENEWAL OF NOTES.

Application No. 7013.

Decided August 10, 1921.

Chas. P. Fuller, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing, Citizens Land and Water Company of Upland asks permission to issue its promissory notes in the aggregate face amount of $22,800.

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A public hearing was held before Examiner Williams at Los Angeles on August 6, 1921.

The company, which was organized on February 12, 1903, is engaged in the distribution of water for domestic and industrial purposes in the city of Upland, San Bernardino County. It reports, on December 31, 1920, 745 consumers. For the years ending December 31, applicant reports its earnings as follows:

Item	1918	1919	1920
Operating revenues	$11,562 15	$12,755 07	$14,364 87
Operating expenses	7,084 89	9,362 28	9,955 44
Net operating revenues	$4,477 26	$3,392 79	$4,409 43
Nonoperating revenues	27 45	49 75	60 50
Gross corporate income	$4,504 71	$3,442 54	$4,469 93
Deduct—			
Interest on funded debt	$750 00	$750 00	$750 00
Other interest	1,553 79	1,490 16	1,391 65
Uncollectible bills	3 70	54 31	
Total deductions	$2,307 49	$2,294 47	$2,144 65
Surplus for year	$2,197 22	$1,148 07	$2,325 28
Dividends	600 00	600 00	600 00
Other deductions	643 00		
Surplus at beginning of year	17,637 21	18,591 43	19,139 50
Surplus at end of year	18,591 43	19,139 50	20,864 78

Applicant reports outstanding $20,000 of stock, $15,000 of twenty-year 5 per cent bonds due May 1, 1923, and $22,800 of short term notes.

Applicant asks permission to refund the $22,800 of notes. It appears from the testimony of Chas. P. Fuller, applicant's secretary, that the notes were issued without permission from the Railroad Commission through inadvertence and with no intent to evade the provisions of the Public Utilities Act. His testimony further shows that the $22,800 of notes were issued in renewal of earlier notes that represented indebtedness originally incurred in the construction of extensions, additions and betterments. Mr. Fuller testified that the purposes for which the $22,800 was expended were properly chargeable to capital account and consisted in general of the development of its well in Upland, the construction of a concrete reservoir, and for additional pipe lines.

At the hearing applicant amended its petition so as to ask permission to renew the $22,800 of notes from time to time, provided that the combined terms of the notes herein authorized, and those issued in renewal thereof, should not exceed three years from the date of the first notes issued under this order.

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ORDER.

Citizens Land and Water Company of Upland having applied to the Railroad Commission for permission to issue notes, a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Citizens Land and Water Company of Upland be and it is hereby authorized to issue not exceeding $22,800 face value of three-year notes bearing interest at not exceeding 8 per cent per annum, for the purpose of refunding the indebtedness referred to in this application.

The authority herein granted is subject to the following conditions:

1. The notes heretofore issued without an order from the Railroad Commission shall be returned to applicant and canceled, and the notes herein authorized shall be issued in lieu thereof.

2. Applicant may, if it so desires, issue the notes for a term less than three years, and renew the notes so issued from time to time, provided that the combined terms of the notes issued for a term of less than three years and those issued in renewal thereof shall not exceed three years from the date of the first notes issued under this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

4. Citizens Land and Water Company of Upland shall keep such record of the issue and disposition of the notes herein authorized as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this tenth day of August, 1921.

DECISION NO. 9352.

CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION,
vs.
SPRING VALLEY WATER COMPANY.

Case No. 842.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY, FOR PERMISSION TO INCREASE THE RATES AND CHARGES FOR WATER FURNISHED BY IT TO THE CITY AND COUNTY OF SAN FRANCISCO AND ITS INHABITANTS.

Application No. 2739.
Decided August 12, 1921.

Spring Valley Water Company granted a 20 per cent increase in rates upon conditions designed to provide an adequate water supply for San Francisco pending

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completion of the Hetch Hetchy project and to avoid expensive duplication of facilities.

Conditional upon the city and county of San Francisco constructing its proposed Hetch Hetchy conduit from Niles, Alameda County, to Crystal Springs reservoir, San Mateo County, with pump station at Ravenswood and agreeing to the use of this by Spring Valley at a yearly rental not exceeding $250,000, the Spring Valley Company is required to spend $1,500,000 to increase the capacity of Calaveras reservoir by 24,000,000 gallons.

Spring Valley is required to create a fund out of surplus to amortize this capital expenditure and in the event that the properties of the utility should be purchased by the city and county of San Francisco prior to January, 1932, this fund shall be transferred to the city.

McCutchen, Willard, Mannon and Green, by *E. J. McCutchen* and *Ulan P. Matthew*, for Spring Valley Water Company.
John J. Daily, for city and county of San Francisco.
C. D. Salfield, in propria persona.

BRUNDIGE, LOVELAND AND BENEDICT, *Commissioners.*

OPINION.

The above entitled proceedings were consolidated for hearing and decision.

On April 5, 1921, Spring Valley Water Company filed its second amended supplemental petition in Application No. 2739. In the amended and supplemental petition, the company asks the Commission to make an order granting permission to increase the rates and charges in such amounts as will yield the company a just and reasonable return upon the value of its properties used and useful in the public service.

The company also asks the Commission to make an order requiring petitioner to charge and collect rates based upon actual consumption and upon the same general principles as those made effective by Decision No. 5730, dated September 3, 1918.

In Case No. 842, as originally filed, the city and county of San Francisco questioned the rates of the Spring Valley Water Company. At the hearing had on the second amended and supplemental petition in Application No. 2739, the city and county of San Francisco did not question the present rates of the company, but rather contended that the company should forthwith take steps to augment the water supply of the city and county of San Francisco and that any expenditures made by the company for that purpose should be made as suggested by the city's engineers, so that the properties acquired or constructed can be used in conjunction with the city's Hetch Hetchy project.

A decision in the original proceedings was postponed pending the sale of the properties of the Spring Valley Water Company to the city and county of San Francisco. On November 24, 1920, the Commission made a report fixing $37,000,000 as a reasonable compensation for such properties of Spring Valley Water Company as the city and county of San Francisco desired to acquire. At the election held on

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March 8, 1921, the purchase proposal failed to secure the necessary two-thirds of the votes cast.

In its report of November 24, 1920, the Commission, referring to the water situation confronting the city and county of San Francisco, said:

> There is no escape from the conclusion that the present supply of water for the city of San Francisco is dangerously near the point of insufficiency. Immediate steps to increase the supply should be taken.
>
> The water supply can be increased only in two ways: Either by the city doing its own development in the immediate future, or by creating conditions whereby the Spring Valley Water Company can be put in position to proceed with such development. In view of existing conditions, it is not to be expected that the company is ready or able to raise the necessary new capital for construction and extensions, and the city can not afford to wait for an improvement of the urgent present water situation until the completion of the Hetch Hetchy system.

The electorate of the city and county of San Francisco, having decided against the purchase of the Spring Valley Water Company's properties, it is incumbent upon the company to incur the necessary expenditures to furnish the city with an adequate water supply. The Commission in its report of November 24 announced that if the company is called upon to make a further investment to safeguard the water needs of the community, there must go with it, "reasonable assurance that the investment made by the company for that purpose may not be destroyed."

The record shows that the further development in the Calaveras water supply is the only practicable means available to the company. Such development will entail not only an increase in the height of the Calaveras dam, but likewise the provision of increased conduit and pumping facilities, since the existing conduit of the Spring Valley Water Company from the Alameda system to the Peninsular reservoirs is now being utilized to its capacity. According to estimates filed with the amended application for increased rates, the expenditures which would be requisite in order to carry this program into effect would exceed the sum of $12,000,000. This investment in conjunction with the refunding of the company's bond and note indebtedness of $20,359,000, for which provision must be made in 1923, presents a problem which the officers of the company say they are unable to solve at the present time irrespective of the measure of any increase in rates that may be granted.

The city and county of San Francisco presented a protest against the company expending approximately $12,000,000 for the purpose of raising the Calaveras dam and constructing an additional conduit and pumping facilities as outlined by the company. The city's protest recites that it is engaged in the construction of a system of water supply works to bring water into the city from the Sierra Nevada mountains, and that the project calls for the construction of an aque-

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duct from a point in the vicinity of the Hetch Hetchy Valley to San Francisco, the course of which will pass near the Calaveras reservoir of the Spring Valley Water Company. Attention is directed to the construction program of the city and objection is made to the construction of another pipe line on the part of the company on the ground that it would represent "a useless and extravagant duplication of capital" and "would not conform to or fit in with the water supply now in course of construction by the city." The city accordingly says in its protest:

> Should it become necessary to bring additional water into the city from the company's Calaveras sources before the completion of the Hetch Hetchy system by the city, such additional water can be transmitted through the city's aqueduct under such reasonable and equitable arrangement as will meet with the approval of this Commission.

This suggestion on the part of the city and county of San Francisco we believe, to be well made and it is clear that if any cooperative plan can be devised whereby the additional pipe line from the Alameda system to the Peninsular reservoir can be constructed by the city in conformity with its Hetch Hetchy project and made temporarily available for the transmission of the water of the Spring Valley Water Company, a very considerable expenditure can be obviated and the company as well as the rate payers be relieved from an unnecessary burden. It appears from the testimony of the company's officials that sufficient conduit capacity exists between the San Andreas reservoir and the city to carry approximately 10,000,000 gallons of water daily in addition to the supply now conveyed by this means. A bond issue has already been authorized by the city, from the proceeds of which a portion of the Hetch Hetchy conduit extending from the Alameda system to the Peninsula reservoirs, together with the necessary pumping facilities, could be built. While the Commission obviously has not jurisdiction over the municipality, such as would enable it to order the construction of this conduit, nevertheless, inasmuch as the city has itself proposed this solution, the Commission feels impelled to take it into consideration and strongly recommends that the plan suggested by the city be carried out.

We are of the opinion that there is but one course which the Commission can follow, and that is, to endorse the provision of some means by which an increased supply of water can be developed and made available to consumers in the city and county of San Francisco. This entails a requirement that the Spring Valley Water Company increase its Calaveras development to such extent as may be necessary and practicable and that the offer of the city to provide the necessary means of conveyance from the Alameda system to the Peninsula reservoirs upon equitable terms be accepted. It seems probable that water

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from the Hetch Hetchy project can not be made available in San Francisco for some years to come, and if the most economical course is followed in prosecuting the Hetch Hetchy project and local water supplies are first utilized to the extent that may be practicable, a somewhat longer period than ten years will elapse before the Hetch Hetchy program can be fully carried into effect. The Commission is reinforced in this conclusion by consideration of the program outlined by the officials of the city and county of San Francisco during the period immediately preceding the election of March 8, 1921, as set forth in certain official pamphlets which have been placed in evidence by the company. From these pamphlets it appears that the maturely considered program of the city authorities contemplates the early completion of the mountain division of the Hetch Hetchy project, the completion of the San Francisco bay division and the prosecution of the remaining units as rapidly as the need for additional water becomes apparent.

As a result of the election held March 8, 1921, we conclude that nearby sources of the water supply must immediately be developed by the company. While the results of the election have, for the time being, left in the hands of the Spring Valley Water Company the duty of supplying the city and its inhabitants with water from local sources, the Commission does not believe in the long run that this fact will cause any material deviation from the construction program outlined by the city. Whether the city or the company brings in this additional water supply from the local sources, the economics of the situation, if not the provisions of the Raker Act, demand essentially that the same program be followed. We will require accordingly that the Spring Valley Water Company make such increase in its Calaveras system as will produce not less than 24,000,000 gallons of water daily in addition to the present available supply and that the company shall further hold itself in readiness to utilize the conduit and pumping facilities which the city and county of San Francisco contemplates constructing upon such terms as will afford a fair return to the city upon its investment and will not unduly burden the water company and its consumers. It seems certain that under this plan the waters of the Spring Valley Water Company can be transmitted by means of the city's facilities for at least ten years to come and that the period of use may well extend beyond this time, depending upon the current needs of the community for additional water and the program of construction of the Hetch Hetchy project. We believe that under the terms of the order herein, the investment to be made by the company and the city will receive adequate protection.

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At the time of the last hearing before the Commission, it was recognized by both the company and the city of San Francisco that the necessity of immediate expenditure by the company of the large sum of money required to augment its water supply involves a consideration of the company's financial needs and of the effect of rates thereon. Admittedly, if the present rates do not yield a reasonable return, it can not be expected that the company's credit will be such as to attract additional capital for investment in the new development. In view of this condition, where immediate action is necessary to forestall a possible water shortage, the Commission has made a check and comparison of valuations of the properties of the company and of its operating expenses and revenues to determine whether or not an increase in the rate is justified. As a result of such check and comparison and a computation of the rate of return based on these figures, the conclusion is reached that the earnings of the company under the present rates are insufficient to maintain its credit, and that the rates should be increased so that the company's rate of return will be approximately 7 per cent, which, at the present time, we believe to be moderate and justified under the facts and circumstances in this case. Such a return means an average increase of rates of 20 per cent.

Reports filed by the company, showing its operating revenues and expenses for 1919 and 1920 and the first five months of 1921 are as follows:

	1919	1920	January to May, 1921
Operating revenues	$3,894,778 76	$3,974,380 56	$1,618,6:6 54
Operating expenses including taxes and depreciation	1,876,136 08	2,032,409 63	874,665 84
Net operating revenues	$2,018,312 68	$1,941,970 93	$744,030 70

In its report of November 24, 1920, the Commission found $37,000,000 to be a reasonable compensation for the properties of Spring Valley Water Company, which the city and county of San Francisco at that time desired to acquire. In general, this compensation covers the used and useful properties of the company. If this figure is used as a basis of computation, the company, in 1919, earned a return of 5.45 per cent; in 1920, 5.24 per cent and during the first five months of 1921, a return of 4.83 per cent.

There is also in evidence in this proceeding the entire record in the case of *Spring Valley Water Company* vs. *City and County of San Francisco,* 252 Fed. 979, decided July 13, 1918, involving the rates of this company. Using the valuations allowed by Judge Rudkin in that decision and bringing them down to date, we arrive at a valuation

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upon which the earnings of the company under the rates show a return less than that above indicated. Similarly, if we assume, as a basis for computation, valuations of the physical properties of the company made by the Commission's engineers and submitted in evidence in this proceeding, it is apparent that the present rates yield an amount substantially less than the 7 per cent reasonable return. Reference to these various valuation figures is made for purposes of illustration, and not as a finding by the Commission of a specific figure as a rate base in this proceeding. We are satisfied, however, from our consideration of these figures, and other data contained in the record, that an increase in the rates is necessary to yield the company a return upon which its credit will be such that it can secure additional investment of capital to augment its water supply.

We further conclude that the increase of 20 per cent in the rates will not place upon the consumers of this utility an unreasonable burden, but that such rate is clearly within the amount to which the company is entitled as a reasonable return upon its properties, used and useful in the public service.

This opinion would not be complete without an expression of the Commission's views with respect to the relation of the problem now before the Commission to the possible future acquisition of the properties of the Spring Valley Water Company by the city and county of San Francisco. The Commission has taken judicial cognizance of the results of the election of March 8, 1921, and the defeat for the time being of the purchase of these properties, which contain the nearby sources of water supply and the means of their development, through lack of the necessary two-thirds vote. The Commission has no desire to attempt to influence the future policy of the city, of which the electors must be the sole judges. It feels, however, that the substantial majority vote which the purchase proposition received requires that some protection be given by the Commission to the public in the event that the purchase should ultimately be made. It is the view of the Commission that the Spring Valley Water Company should hold itself in readiness throughout the term during which this cooperative plan shall be in effect to sell to the city the properties included in its offer of January 14, 1921, at a price which shall not exceed the price heretofore fixed by the Railroad Commission, increased only by the amount of actual expenditures made by the company for capital purposes between the first day of March, 1920, and the first day of July, 1921, and other capital expenditures required of the company under the terms and conditions of our order herein. We feel that the company may reasonably be expected to give its assent to our recommendation in this respect even though it is not made a condition of the order.

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The order will specifically require that the special fund which the company is to set aside for the amortization of its new expenditures in the Calaveras dam shall be transferred to the city in the event that the properties are purchased during the term of the arrangement, and the amount of this fund will, of course, constitute a pro tanto reduction of the price which the city may pay.

The Commission feels justified further in adding its strong recommendation that the company adopt a policy of selling such lands as are not required for water supply purposes and which were not included in its offer of sale of January 14, 1921, as rapidly as may be consistent with the realization of advantageous prices. The Commission will be interested in receiving from the company from time to time evidence of compliance with this recommendation, which the Commission believes will be to the common advantage of the company and of its rate payers.

After a careful consideration of the voluminous records before us and of the factors just mentioned, which so cogently affect the present situation in San Francisco, the following order will be made:

ORDER.

Formal application having been filed herein by the Spring Valley Water Company for an increase of rates, and complaint having been filed by the city and county of San Francisco, a municipal corporation, against said water company for a reduction in rates, said matters having been consolidated for hearing and decision, public hearings having been held, evidence received and the matters submitted, the Railroad Commission hereby finds that the rates and charges now in effect for the sale and distribution of water by the Spring Valley Water Company in accordance with the schedules on file with the Railroad Commission, are unjust and unreasonable in so far as they differ from the rates hereinafter authorized, and that the rates hereinafter authorized are just and reasonable rates to be charged by said utility. And basing its order upon said findings and further findings and statements of fact contained in the opinion preceding this order;

It is hereby ordered as follows:

The Spring Valley Water Company is hereby authorized to establish and thereafter to charge and collect, in lieu of the rates and charges now set forth in the schedules on file with this Commission, rates and service charges for the sale and distribution of water and charges for hydrant service which shall exceed the rates, service charges and charges for hydrant service now in effect by twenty per cent (20%), such increases to become effective upon the first day of September, 1921, and to apply to all service rendered on and after that date, except that increases in charges to the city and county of San Francisco for hydrant and water

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service shall not become effective until the first day of July, 1922 (the foregoing exception being made to protect the municipal budget which had already gone into effect). The increased rates and charges hereby authorized are expressly subject to the following conditions, to which the Spring Valley Water Company shall be required to give its assent by stipulation to be filed with the Commission prior to the first day of September, 1921:

1. If the city and county of San Francisco shall construct the section of its proposed Hetch Hetchy conduit extending between the Niles screen tank on Alameda Creek, in Alameda County, and the Crystal Springs reservoir in San Mateo County, together with a pumping station at Ravenswood, and is willing to enter into an agreement with the Spring Valley Water Company, under which additional water may be brought from Alameda Creek sources through said conduit and by means of said pumping station into Crystal Springs reservoir, then and in that event the Spring Valley Water Company shall be required to expend a sum not exceeding $1,500,000 in increasing the height of its present Calaveras dam to an elevation which will result in an increase of not less than 24,000,000 gallons in the average daily yield of the Calaveras reservoir, and in making such other additions to its structures and facilities as may be requisite to permit the delivery of such additional 24,000,000 gallons daily to Niles screen tank. All of such construction shall be completed not later than the date of the completion of the Hetch Hetchy conduit and pumping station proposed to be constructed by the city and county of San Francisco; provided, however, that the required increase in the height of the Calaveras dam may be made in two or more units, and in such event only the first of such units need be completed within the period last specified, and the remaining unit or units shall be completed within such further period or periods of time as may be jointly determined by the city engineer of the city and county of San Francisco and the chief engineer of the Spring Valley Water Company, and, in the event of their failure to agree thereupon, as may be determined by the Railroad Commission. In order to facilitate the construction of such conduit and pumping station by the city and county of San Francisco, the Spring Valley Water Company shall grant to the city and county of San Francisco an easement of right of way for the installation of said conduit through such lands and rights of way of the Spring Valley Water Company as may be necessary therefor, the location of such conduit to be so determined as will interfere to the least possible extent with the future use by the Spring Valley Water Company of its lands and rights of way. Prior to the granting of said easement to the city and county of San Francisco the company may require an agreement to the effect that in the event that the properties of the Spring

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Valley Water Company shall have been purchased by the city and county of San Francisco prior to the first day of January, 1932, no payment shall be made for said easement so acquired by the city and county, but in the event that such properties shall not have been so purchased prior to the first day of January, 1932, the city and county of San Francisco shall be obligated to pay to the company on that date the fair and reasonable value of such easement, which value shall be jointly determined by the respective parties prior to the effective date of this order, or, in the event of their failure to agree, shall be fixed by the Commission prior to the grant of such easement. The company may also make it a condition of said agreement for operating said Hetch Hetchy conduit and pumping station that if the company should at a future date elect to build its own conduit, or, for any other reason, should not require the further use of said Hetch Hetchy conduit and pumping station, it may, with the prior approval of the Railroad Commission, to be evidenced by a formal order, and on not less than one year's written notice to the city and county of San Francisco, terminate said agreement, and may make it a further condition of said agreement that the city and county of San Francisco shall give the company at least three years' written notice of its election to terminate said agreement, and that such notice shall not be given except for the purpose of enabling the city and county of San Francisco to make use of such conduit and pumping station for the transmission of water from its Hetch Hetchy project to San Francisco, and that such termination shall not become effective prior to the time when the city and county of San Francisco shall actually require the use of such conduit and pumping station for such purpose, it being the intent hereof to afford the company adequate opportunity to provide or acquire other facilities for the transmission or other disposition of its water when said agreement shall be terminated by the city and county of San Francisco. The program of construction and time of completion of said structures shall be subject to joint determination by the city engineer of the city and county of San Francisco and the chief engineer of the Spring Valley Water Company, and in case of their failure to agree upon such program of construction or time of completion in any respect, the difference shall be submitted to the Railroad Commission of the State of California for determination.

2. The Spring Valley Water Company shall, if the city and county of San Francisco undertakes the construction of said conduit and pumping station, stand ready to enter into and execute an agreement with said city and county, under which the company shall pay to the city and county out of its revenues commencing with the date at which the delivery of water through said conduit begins, a sum equal to five per cent of the cost of constructing said conduit and pumping station,

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not exceeding a total of $250,000 per year, and shall also pay, either through its own operation of said conduit and pumping station or, if that should not prove feasible, through the city's operation of said conduit and pumping station, all operating and maintenance charges, not including, however, replacements, extraordinary repairs, or loss or damage due to faulty construction or employment of defective or inadequate materials. Water brought through said conduit to Crystal Springs reservoir shall, to such extent as may be necessary, be pumped to the elevation of San Andreas reservoir, and thereafter delivered to the company's consumers in San Francisco.

3. Commencing with the year 1922 the Spring Valley Water Company shall create and establish out of its surplus a fund for the purpose of amortizing the capital expenditures which will be incurred by the company in accordance with the above requirements, such fund being hereinafter referred to as the amortization fund. Said amortization fund shall be created and maintained as follows:

After full provision has been made during each year for the payment of operating and maintenance expenses, including the cost of operating the Hetch Hetchy conduit and pumping station (including likewise the payment of interest on the cost of construction of such conduit and pumping station as above provided), the payment of taxes and assessments, the creating of a depreciation reserve of $300,000 per annum, the payment of interest on all bonds and notes and other interest bearing indebtedness, and the payment of dividends at the rate of 5 per cent per annum upon the outstanding capital stock of the aggregate par value of $28,000,000, there shall be set aside out of the surplus after meeting the foregoing requirements not less than the sum of $119,240 each year, which will be placed in the amortization fund until the aggregate of such fund amounts to a sum which would be produced by an annual contribution of $119,240 for the term of ten years, with interest at 5 per cent compounded annually; provided, however, that if the revenues of any particular year shall exceed the requirements of the Spring Valley Water Company as hereinabove set forth by more than $119,240, the amount of such excess above $119,240 shall be apportioned equally between the amortization fund and the surplus of the Spring Valley Water Company; provided, further, that if the revenues of any particular year shall be insufficient to yield a surplus of $119,240 above the aforesaid requirements of the Spring Valley Water Company, the company shall not, during such year or thereafter, be required to make any contribution to the amortization fund until a surplus shall have been derived in subsequent years in a sufficient aggregate amount to make up such deficit or accumulated deficits, together with interest

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upon the amount thereof at the rate of 7 per cent per annum; provided, further, that the Spring Valley Water Company shall not be required to make any contribution to the amortization fund during the years 1922 and 1923, but in the event that the properties of the Spring Valley Water Company which were offered for sale to the city and county of San Francisco on the fourteenth day of January, 1921, shall be purchased by the city and county of San Francisco prior to the first day of January, 1932, the sum which shall be transferred to and become the property of the city and county of San Francisco as hereinafter provided shall be not less than the sum which would have been accumulated if contribution had been made to the amortization fund in accordance with the foregoing requirements of this condition. All moneys placed in the amortization fund herein required to be established shall be invested by the Spring Valley Water Company in such manner as will in its judgment afford the maximum interest yield consistent with safety of principal.

4. As a further condition of the granting of such increase, it is required that in the event that the properties of the Spring Valley Water Company which were offered for sale to the city and county of San Francisco on the fourteenth day of January, 1921, shall be purchased by the city and county of San Francisco prior to the first day of January, 1932, the amortization fund established in accordance with the requirements of condition "3" hereof shall be transferred to and become the property of the city and county of San Francisco; provided, however, that if up to the time that such properties shall be purchased by the city and county of San Francisco the revenues of the company shall have been insufficient to meet the requirements of the company as specified in condition "3" hereof, and such deficit or accumulated deficits shall not have been offset by the surplus derived from the revenue of subsequent years and prior to the time of such purchase, the said amortization fund before being transferred to the city and county may be diminished by the amount of such deficit or accumulated deficits, and only the balance paid over to the city and county of San Francisco. In the event that said properties of the Spring Valley Water Company shall not have been purchased by the city and county of San Francisco prior to the first day of January, 1932, the said amortization fund shall thereafter remain the property of the Spring Valley Water Company.

5. The company shall file with the Railroad Commission, annually or at more frequent intervals and at such date as the Commission may require, statements taken from the books of the company showing compliance with the foregoing conditions.

It is hereby further ordered, that the Spring Valley Water Company shall file with this Commission before the first day of September, 1921,

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the amended schedule of rates and charges in accordance with the provisions of the above order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of August, 1921.

DECISION No. 9353.

IN THE MATTER OF THE APPLICATION OF PALMS WAREHOUSE COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE STOCK.

Application No. 7039.

Decided August 13, 1921.

Sol. A. Rehart, for Applicant.

BY THE COMMISSION.

OPINION.

Palms Warehouse Company asks permission to issue and sell at par, 40 shares ($4,000) of its common capital stock.

A public hearing in this matter was held before Examiner Williams in Los Angeles on August 6, 1921.

It appears from the testimony of John F. Sake, applicant's secretary, that Palms Warehouse Company has been recently organized with an authorized stock issue of $10,000, divided into 100 shares of the par value of $100 each. Applicant has leased the building and equipment formerly operated by Imperial Grain and Warehouse Company at Palms, Los Angeles County, and proposes to conduct a grain, bean and feed business, and, incidentally, the public utility business of warehousing.

The testimony herein shows that the $4,000 of stock it is now proposed to issue, will be sold for cash at par, without any deduction for brokerage or commission fees to applicant's directors, and the proceeds largely used for nonpublic utility purposes. Applicant intends to expend $1,600 for trucks and $1,400 for feed and use $1,000 for working capital.

We are of the opinion that the application should be granted but that applicant should be required to file with the Railroad Commission a stipulation duly authorized by its board of directors agreeing that it, its successors and assigns will never ask the Railroad Commission or other public body having jurisdiction, to include in a rate base such portion of the $4,000 as may be expended for nonpublic utility purposes.

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ORDER.

Palms Warehouse Company, a corporation, having applied to the Railroad Commission for permission to issue stock, a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Palms Warehouse Company, a corporation, be and it is hereby authorized to issue and sell 40 shares ($4,000) of its common capital stock.

The authority herein granted is subject to the following conditions:

1. The stock herein authorized to be issued shall be sold, for cash, at not less than par, without deduction for brokerage or commission, and the proceeds used for the purposes specified in the opinion preceding this order.

2. Palms Warehouse Company, within sixty days from the date of this order, shall file with the Railroad Commission for approval, a stipulation duly authorized by its board of directors, declaring that it, its successors and assigns will never urge the Railroad Commission, or other public body having jurisdiction, to include in a rate base such portion of the $4,000 as may be expended for nonpublic utility purposes.

3. Palms Warehouse Company shall keep such record of the issue and sale of the stock herein authorized, and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall apply only to such stock as may be issued on or before December 31, 1921.

Dated at San Francisco, California, this thirteenth day of August, 1921.

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DECISION No. 9354.

IN THE MATTER OF THE APPLICATION OF THE COMPTON WATER AND LIGHTING COMPANY FOR AN ORDER AUTHORIZING THE COMPANY TO MORTGAGE ITS PLANT.

Application No. 6760.

Decided August 13, 1921.

E. E. Elliott, for Applicant.

BY THE COMMISSION.

OPINION.

Compton Water and Lighting Company applies for authority to issue a note for not over $5,000 for not to exceed five years, to execute mortgage to secure the payment of the note and to use the proceeds of the note to pay for extensions and improvements heretofore installed.

A public hearing upon the application was held by Examiner Westover at Los Angeles. At the hearing witnesses arranged to prepare and submit as part of their testimony exhibit showing cost of extensions and improvements and balance sheet as of June 1, 1921. This exhibit has been received and the application is now submitted and ready for decision.

The company filed, before the hearing, a supplemental application for authority to issue stock for the purpose of securing a lot on which is located a ten-inch well, but it subsequently advised that it had decided to abandon the plan to issue stock. Therefore the matter of issuing stock will not be discussed herein.

It appears from the testimony presented at the hearing that there has been great building activity in and around Compton and that applicant has piped several additions or subdivisions, and has made other improvements incident to the extension of its system, such as laying about 1000 feet of four-inch pipe on Orange street, under the railroad tracks, and increasing the size of 2200 feet of pipe to four-inch, besides installing about 160 new services during the year. Some of the tracts were piped under an agreement with the owners by which the owners advanced the cost, which was to be repaid to the tract owners at the rate of $25 as each consumer came on the new line. On June 1, 1921, these rebates for 142 consumers amounted to $3,350. The 160 new services, however, had to be installed at the cost of the company. The company's statement of the situation on June 1, 1921, showed applicant owing for

Pipe, material, meters, etc.	$5,216 58
Bills payable	2,000 00
	$7,216 58
Due from subdividers, account main extensions	4,482 00
Balance	$2,734 58
Refund to tract owners, under agreement	3,550 00
Balance	$6,284 58

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Since submitting the above exhibit, applicant advises that it has also become necessary to install a new pump at a cost of $1,000 or more.

Under the circumstances shown, we authorize the issue of note and execution of mortgage.

ORDER.

A public hearing having been held upon the above entitled application, the matter being now submitted and ready for decision, and the Commission being of the opinion that the money, property or labor to be procured or paid for by said note issue is reasonably required for the purpose or purposes specified in this order, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Compton Water and Lighting Company be and it is hereby authorized to execute a note or notes for a total sum not exceeding $5,000 in amount, for a term or terms not exceeding five years, at a rate of interest not exceeding seven per cent per annum and use the proceeds of said note or notes for the purpose of discharging its lawful obligations incurred in acquiring property or constructing, completing, extending or improving its facilities.

And said company is hereby further authorized to execute mortgage securing the payment of said note or notes, said mortgage to be a first lien upon the west one-half of lot 5, block 2, of Wright's addition to the city of Compton, as per map recorded in book 7, page 55, miscellaneous records of Los Angeles County, together with the pumping plant, machinery and equipment thereon and all pipe lines and water mains comprising the water system of said Compton Water and Lighting Company.

The above authority is granted upon the following conditions:

1. The authority herein granted shall apply only to such note or notes and mortgage or mortgages as may be issued on or before sixty days from date hereof.

2. Within ten days after date of issuing said note or notes and executing said mortgage, said applicant shall file with the Railroad Commission a verified copy thereof, with verified report in accordance with the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted shall not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

Dated at San Francisco, California, this thirteenth day of August, 1921.

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DECISION No. 9355.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER PERMITTING DISCONTINUANCE OF TRAINS NOS. 61 AND 64, BETWEEN CALISTOGA AND NAPA, CALIFORNIA.

Application No. 6675.

Decided August 13, 1921.

TRAIN SERVICE—CURTAILMENT OF.—It having been found that the patronage has been materially less than necessary to meet the costs of operation and that other reasonable methods of transportation are available, the Southern Pacific Company was given permission to withdraw trains Nos. 61 and 64, operating between Napa and Calistoga.

H. H. Gogarty, for Applicant.

Henry C. Gesford, for Chamber of Commerce of Calistoga; Chamber of Commerce of St. Helena; Civic Club of Calistoga; Town Trustees of Calistoga; Town Trustees of St. Helena; Mayor of Calistoga; Mayor of St. Helena; California Medical Missionary and Benevolent Association operating St. Helena Sanitarium; and citizens and taxpayers generally; Protestants.

BY THE COMMISSION.

OPINION.

Southern Pacific Company, applicant in the above entitled proceeding, has petitioned the Railroad Commission for an order authorizing the discontinuance of certain passenger service by the elimination of two trains now operating between Napa and Calistoga, scheduled as trains Nos. 61 and 64, alleging that such trains are not attracting sufficient patronage to justify their continuance.

Public hearings on this application were conducted by Examiner Handford at St. Helena, the matter was duly submitted on briefs to be filed by counsel for applicant and protestants. Briefs have been filed and the matter is now ready for decision.

The trains proposed to be discontinued operate on the Napa branch of the Western Dvision of applicant, Southern Pacific Company, and on the following schedules:

Train 61. Leaves Calistoga 6.25 a. m. daily, arrives Napa 7.40 a. m.

Train 64. Leaves Napa 7 p. m. daily, arriving Calistoga 8.05 p. m.

Witnesses for applicant testified as to the reasons supporting the request for discontinuance of the service heretofore rendered by trains 61 and 64 between Napa and Calistoga; that the trains were operated at a material loss due to insufficient patronage by the public; that the loss of patronage was attributed largely to more frequent service offered by the San Francisco, Napa and Calistoga Railway, a competing electric line operating and serving the same stations as the trains proposed to be abandoned; that the advent of the automobile has made serious inroads into the patronage formerly accorded by the traveling public; that the trains proposed to be withdrawn have never been operated at

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a profit; that the passenger business on the Napa-Calistoga branch has been decreasing steadily since the commencement of operation of the competing electric line; that the operation of the trains proposed to be withdrawn is unremunerative and does not return the bare cost; and that the communities affected will be adequately served if the withdrawal of the trains is permitted.

The following data is reflected by exhibits which were filed by applicant as indicating traffic conditions, revenue and expenses:

Average passengers per day (based on period from March 25 to 31, 1921, inclusive).

Train No. 61, Calistoga to Napa—Fifteen passengers, of which number 14 were destined to points beyond Napa. Total average daily revenue, at rate of 3.6 cents per passenger mile, $10.37; revenue per passenger train mile, 38.4 cents. Total passenger revenue for 30-day month upon above basis, $311.10.

Train No. 64, Napa to Calistoga—Sixteen passengers, of which number 14 originated at points south of Napa. Total average daily revenue, at rate of 3.6 cents per passenger mile, $176.10; revenue per passenger train mile, 21.7 cents. Total passenger revenue for 30-day month upon above basis, $176.10.

Average earnings per train mile (entire branch between South Vallejo and Calistoga). April, 1920 to March, 1921, inclusive:

Train No. 61, $0.60.

Train No. 64, $0.69.

Average excess baggage collection at stations on Calistoga branch north of Napa. (Months of July and December, 1920, and March, 1921, taken as representative months.) $16.05 per month.

Net direct operating costs between Napa and Calistoga, for trains Nos. 61 and 64. (Based on direct saving if such trains were to be discontinued.)

Wages	$572 60
Locomotive expense	581 37
Other train expenses	100 45
Taxes (based on 5¼ per cent of revenue)	25 57
Total	$1,279 99

The granting of this application is protested by civic organizations, town trustees, public officials and many other citizens in the communities heretofore served by the trains proposed to be withdrawn.

Witnesses for protestants testified as to the inconvenience that would result were authority to be granted for the withdrawal of the trains; that mail service would be delayed as to delivery at Calistoga and St. Helena; that difficulty and inconvenience would be caused passengers destined to or from points between Napa, Calistoga and San Francisco and the bay cities or Sacramento and other Sacramento Valley points, when such passengers desired to make the round trip in one day; that the trains proposed to be withdrawn have been operated upon approximately the same schedule for the past 40 years; that the business of the St. Helena sanitarium would be interfered with, such sanitarium doing approximately 90 per cent of its business with patients originating in California, 55 per cent being residents of the bay cities and approximately 35 per cent reaching the sanitarium over the lines of the applicant via Sacramento; that the advertising programs of the various protesting

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chambers of commerce would be interfered with in that literature has been widely circulated containing information that applicant has two trains in each direction operating on its Calistoga branch; that resorts in and around Calistoga, including Lake County resorts served through the Calistoga gateway, would suffer material loss of patronage; that no round trip reduced rates are now procurable over lines of applicant although offered by the competing electric line, as well as a lower single trip fare both in the district which would be affected by the proposed discontinuance of service and also to San Francisco; that merchants in Calistoga depend upon train No. 64 for delivery of newspapers, ice cream and perishable supplies; that shippers of milk and cream to San Francisco via train No. 61 will be inconvenienced as will also a shipper of dehydrated products from St. Helena, who is now able to receive mail orders and answer correspondence and make parcel post or express shipments on the same day; and that shippers of cherries by express in carload and less than carload lots may be inconvenienced as to supply of refrigerator cars and facilities for prompt shipment by express.

We have given very careful consideration to the evidence and exhibits filed in this proceeding as well as the briefs of counsel for protestants and the applicant.

It appears from the evidence that the operation of the trains herein sought to be discontinued has returned a revenue materially less than the bare or out-of-pocket cost of operation, the receipts per passenger train mile in the territory between Napa and Calistoga, where discontinuance is sought, amounting to 30.05 cents per train mile and the entire receipts over the Calistoga branch for the trains herein considered being 34.5 cents per train mile. The expense of operation, and considered on the most favorable basis being the actual savings to be accomplished by the discontinuance of these trains in the territory herein sought, is 81.42 cents per train mile, or 51.37 cents per train mile less than the bare cost of operation. The train mileage proposed to be discontinued, based on a 30-day month, results in a direct loss to applicant of $807.53, in which no consideration whatever has been given to items of additional operating cost, such as station expense, maintenance of way and structures, traffic or general expense, taxes or any interest on investment, all of which items should be considered as forming portions of operating cost which might properly be claimed by applicant.

We are not unmindful of, and are impressed with, the sincerity of protestants in this proceeding who are desirous of having the present service continued in effect as it has been for many years. The attention of these protestants is directed to the fact that the district served by the trains herein sought to be discontinued is also served by six trains in each direction operated by the San Francisco, Napa and Calistoga

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Railway, that such trains offer a direct service to or from San Francisco in connection with the steamers of the Monticello Steamship Company and at a lesser rate of fare than exists on the line of applicant, also transfer can be made at Napa to and from the trains of the Southern Pacific Company. The electric line also handles express matter in connection with the American Railway Express Company, which also operates over the line of applicant. As to the transportation of United States mail the electric line is in position to accept such transportation if the Post Office Department offers the mail and parcel post for movement over such route.

The rates of applicant, to which reference is herein made and which testimony indicates are higher than the rates of the competing electric line and which also do not offer the advantage of any reduction as regards round trips, were established by the United States Railroad Administration when the railroads were operated by the federal government and by other proceedings in which such rates were declared just and reasonable. The rates of the competing electric carrier were not raised by federal order as such carrier was not under federal control and has not received authority to increase rates to the standard rate per passenger mile authorized for steam railroads, nor for the withdrawal of reduced round trip rates. No evidence was introduced in this proceeding indicating that the rates of applicant were unjust or unreasonable or that they were returning more than a reasonable amount on the capital invested after caring for the expense of operation, fixed charges, taxes and depreciation. The condition as to the revenue derived from the specific trains proposed to be discontinued and the cost of operation is, however, fully set forth by the evidence in this proceeding.

The Commission in this proceeding, as in all others involving reduction of train service or of any curtailment of service heretofore provided for the public and whether such requests for curtailment are presented formally or informally, has very carefully considered all facts presented and with particular attention to the public interest, and to conditions that have been created by reason of a particular service having long existed and thereby having become apparently an established factor in the communities served. It is evident, however, in the particular instance as presented in this proceeding, that the patronage which has been accorded by the public to the trains proposed to be discontinued in the district heretofore served has been materially less than is necessary to meet the costs of operation and that the minimum direct cost of operation has exceeded by almost two and one-half times the amount of revenue derived.

We are of the opinion and hereby find as a fact that the operation of trains Nos. 61 and 64 between Napa and Calistoga on the Calistoga

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branch of the Western Division of the Southern Pacific Company has been conducted at a cost far in excess of the revenue derived; that the patronage accorded such trains by the traveling public does not justify their continuance; and that other reasonable methods of transportation will be available for the public if such trains are discontinued.

ORDER.

Public hearings having been held in the above entitled proceeding, the matter having been duly submitted, briefs having been filed by interested counsel and the Commission being fully advised and basing its order on the finding of fact as set forth in the opinion which precedes this order;

It is hereby ordered, that this application be and the same hereby is granted, subject to the following conditions:

Applicant, Southern Pacific Company, will be required to give due notice to the public of the suspension of operation of trains Nos. 61 and 64 between Calistoga and Napa by posting notice of the date of discontinuance of said trains at all stations affected and by advertisement in the public press at least ten days prior to the date of such authorized discontinuance.

Dated at San Francisco, California, this thirteenth day of August, 1921.

DECISION No. 9357.

IN THE MATTER OF THE APPLICATION OF CITRUS BELT GAS COMPANY TO SELL AND OF SOUTHERN CALIFORNIA GAS COMPANY TO BUY CERTAIN PROPERTY IN THE CITIES OF REDLANDS, COLTON AND SAN BERNARDINO, IN SAN BERNARDINO COUNTY, AND IN THE CITY OF CORONA, IN RIVERSIDE COUNTY, STATE OF CALIFORNIA; OF SOUTHERN CALIFORNIA GAS COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISES GRANTED BY SAID CITIES, OR APPLIED FOR; FOR THE APPROVAL OF A CERTAIN CONTRACT ENTERED INTO BETWEEN CITRUS BELT GAS COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY, AS OF DATE JUNE 14, 1921, AND OF THE SOUTHERN CALIFORNIA GAS COMPANY FOR PERMISSION TO ISSUE BONDS PURSUANT TO SAID CONTRACT.

Application No. 6917.

Decided August 13, 1921.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 9238, dated July 15, 1921, authorized Citrus Belt Gas Company to sell its properties described in Schedule "A," attached to said decision, to Southern California Gas Company; and

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Whereas, applicants report that they inadvertently omitted certain properties from the list of properties heretofore furnished the Commission and applicants having filed with the Commission a complete list and description of the properties to be transferred and having requested the Commission to modify its order of July 15, 1921;

And, the Commission being of the opinion that applicants' request should be granted;

It is hereby ordered, that provision "1" of the order in Decision No. 9238, dated July 15, 1921, reading:

> Citrus Belt Gas Company may sell its properties described in Schedule "A," attached hereto, to Southern California Gas Company, and Southern California Gas Company may purchase said properties pursuant to the terms and conditions of the agreement filed in this proceeding and marked Exhibit "A," which agreement applicants are authorized to execute and perform all acts necessary to carry said agreement into effect.

be and it is hereby modified so as to read:

> Citrus Belt Gas Company may sell its properties described in Schedule "B," attached hereto., to Southern California Gas Company, and Southern California Gas Company may purchase said properties pursuant to the terms and conditions of the agreement filed in this proceeding and marked Exhibit "A," which agreement applicants are authorized to execute and perform all acts necessary to carry said agreement into effect.

It is hereby further ordered, that the order in Decision No. 9238, dated July 15, 1921, as amended, shall remain in full force and effect except as modified by this third supplemental order.

Dated at San Francisco, California, this thirteenth day of August, 1921.

SCHEDULE "B."

The properties which Citrus Belt Gas Company is authorized to sell and Southern California Gas Company to purchase by the original and supplemental orders in Application No. 6917 are those described in the indenture filed on August 10, 1921, in Application No. 6917, and consist of the following:

The grantor (Citrus Belt Gas Company) agrees to sell and deliver, and the grantee (Southern California Gas Company) agrees to take and pay for—

All those certain lots, pieces and parcels of ground and interests in and to real property situated in the city of Redlands in the county of San Bernardino, State of California, more particularly described as follows:

PARCEL (*a*)—Lots one (1), two (2), three (3), four (4), five (5), and six (6), in block "B" of Peller, Pratt and Kendall's subdivision of a portion of lot twenty-seven (27), block 77, of the Rancho San Bernardino, and a part of lot one (1), block 27 of Redlands, as per plat recorded in book 5 of maps, page 22, records of said county; together with all buildings, improvements and fixtures now located thereon.

PARCEL (*b*)—Lots nine (9), ten (10), and eleven (11), in block "B" of said Peller, Pratt and Kendall's subdivision as per plat recorded in book 5 of maps, page 22, records of said county;

Also, beginning at a point six hundred twenty and one-half (620½) feet west and thirty (30) feet south of the northeast corner of the south half (S½) of the south half (S½) of lot twenty-seven (27), block 77, of the Rancho San Bernardino, as per plat recorded in book 7 of maps, page 2, records of said county, thence west one hundred thirty-four and eighty-five hundredths (134.85) feet; thence south

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one hundred four (104) feet; thence west seventy-eight and one-half (78½) feet; thence south in a direct line, one hundred twenty-two (122) feet, more or less, to Mill Creek Zanja; thence easterly along said Zanja, to a point of its intersection with Mill st.; thence along the west line of said Mill st., north two hundred eighty-eight (288) feet, more or less, to the point of beginning; together with all buildings, improvements and fixtures now located thereon.

And for a like consideration the grantor does hereby grant, bargain, sell, convey, assign, transfer and set over unto the grantee, its successors and assigns, all those certain lots, pieces and parcels of ground, and interests in and to real property situated in the city of Colton, county of San Bernardino, State of California, more particularly described as follows:

PARCEL (*c*)—Lots one (1) to sixteen (16), both inclusive, in block 173 of the town of Colton, in said city, county and state, as per plat recorded in book 9 of maps, page 37, records of said county; together with all buildings, improvements and fixtures now located thereon.

And for a like consideration the grantor does hereby grant, bargain, sell, convey, assign, transfer and set over unto the grantee, its successors and assigns, all those certain lots, pieces and parcels of ground, and interests in and to real property situated in the city of San Bernardino, county of San Bernardino, State of California, more particularly described as follows:

PARCEL (*d*)—All that portion of lot one (1), in block 10 of the five-acre survey of the Rancho San Bernardino in the city of San Bernardino, county of San Bernardino, State of California, as per plat recorded in book 7 of maps, page 2, records of said county, described as:

Commencing at a point in the north line of said lot one (1), at the northwest corner of land formerly owned by the San Bernardino Artificial Stone and Improvement Company as described in the deed from A. Thompson, to said San Bernardino Artificial Stone and Improvement Company, recorded in book 55 of deeds, page 270, said records; thence west along the north line of said lot one (1), one hundred and fifty (150) feet; thence south three hundred fifteen (315) feet, more or less, to the north line of right of way of the Southern California Railway (now Santa Fe Railroad); thence east one hundred fifty (150) feet; thence north three hundred fifteen (315) feet, more or less, to the point of beginning; together with all buildings, improvements and fixtures now located thereon.

And for a like consideration, the grantor does hereby grant, bargain, sell, convey, assign, transfer and set over unto the grantee, its successors and assigns, all those certain lots, pieces and parcels of ground, and interests in and to real property situated in the city of Corona, county of Riverside, State of California, more particularly described as follows:

PARCEL (*e*)—All that portion of lot four (4), in block seventy-one (71), of South Riverside Colony lands as shown by map recorded in book 9, page 6, of maps, records of San Bernardino County, California, described as follows:

Commencing at the northeast corner of lot five (5), in said block seventy-one (71); thence running southeasterly along the northeasterly line of said lot 4, 89 feet and 1 inch; thence southerly parallel with the westerly line of said lot 4, 194.42 feet; thence westerly along the southerly line of said lot 4 to the southwesterly corner thereof; thence northerly along the west line of said lot 4, 208.45 feet to the point of beginning;

Together with all buildings, improvements and fixtures now located thereon.

And for a like consideration, the grantor does hereby grant, bargain, sell, convey, assign, transfer and set over unto the grantee, its successors and assigns, all those certain lots, pieces and parcels of ground, and interests in and to real and personal property situated in the counties of San Bernardino and Riverside, State of California, more particularly described as follows:

PARCEL (*f*)—Grantor's gas generating systems, compressor plants and gas distributing systems and mains in and about each of the cities of Redlands, San Bernardino, Corona and Colton, including among other things, all mains, pipes, rights of way, licenses and like privileges, furnaces, boilers, purifiers, washers,

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holders, meters, motors, services, tools, equipment, appliances and property either real or personal used in or in connection with said systems.

And for a like consideration the grantor does hereby sell, convey, transfer, assign and set over unto the grantee, its successors and assigns, the personal property situated within the counties of San Bernardino and Riverside, more particularly described as follows:

PARCEL (*g*)—All office furniture and equipment which was on the 14th day of June, 1921, located at any of the grantor's offices in any of the cities of Redlands, San Bernardino, Corona and Colton; and all automobiles and automobile trucks now owned by grantor, *excepting* therefrom, however, the Hudson automobile, License No. P. S. 4068, and the office desk and office chair now used by the manager of the grantor.

PARCEL (*h*)—All material and supplies, including oil, now owned by grantor.

And for a like consideration the grantor does hereby grant, bargain, sell, convey, transfer, assign and set over unto the grantee, its successors and assigns, those certain properties, rights and interests situated within the said counties of San Bernardino and Riverside, State of California, more particularly described as follows:

PARCEL (*i*)—Those certain franchises, rights and privileges described as follows:

1. *Redlands.* All those certain franchises, rights and privileges granted by the board of trustees of the city of Redlands to the Redlands Gas Company, by ordinance No. 267, and to _____ Edison Company, by ordinance No. ____, and to Home Gas and Electric Company, by ordinance No. 407; together with all pipes, pipe lines, connections, meters and other apparatus and appliances installed pursuant to or in connection with said franchises, and each of them.

2. *San Bernardino.* All those certain franchises, rights and privileges heretofore granted by the city of San Bernardino to Seth Hartley by ordinance adopted by the board of trustees of said city, November 5, 1904, being ordinance No. 298; together with all pipes, pipe lines, connections, meters and other apparatus and appliances installed pursuant to or in connection with said franchise.

3. *Colton.* All rights, privileges and franchises granted by the board of trustees of the city of Colton to George B. Ellis, by ordinance No. 195, as amended by ordinance No. 197; together with all pipes, pipe lines, connections, meters and other apparatus and appliances installed pursuant to or in connection with said franchise.

4. *Corona.* All rights, privileges and franchises granted by the board of trustees of the city of Corona to P. J. Dubbell, by ordinance No. 283; together with all pipes, pipe lines, connections, meters and other apparatus and appliances installed pursuant to or in connection with said franchise.

5. All franchises to use the public streets and thoroughfares of each and every of the cities hereinbefore in this indenture named, and of laying down pipes and conduits therein and connections therewith so far as may be necessary for introducing into and supplying said cities and their respective inhabitants with gaslight acquired by grantor under and by virtue of section 19 of Article XI of the Constitution of the State of California as it existed prior to October 10, 1911; together with all pipes, pipe lines, connections, meters and other apparatus and appliances installed pursuant to or in connection with said franchises.

6. Any and all other franchises, rights and privileges not above specifically set forth, granted by any governmental or other public body to the grantor, or now owned by it, together with all pipes, pipe lines, connections, meters and other apparatus and appliances installed pursuant to or in connection with any of said franchises.

All of said properties are subject to the state franchise tax of the grantor for the fiscal year 1921-22, but are granted and conveyed free and clear from any and all other encumbrances.

To have and to hold, all and singular, the real and personal property, rights and interests aforesaid, unto the said grantee, its successors and assigns, subject to the encumbrances above set forth.

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It is expressly conditioned and agreed by and between the parties hereto that although this indenture is executed and delivered and is to be accepted pursuant to the provisions of a certain indenture made in duplicate between the parties hereto, dated June 14, 1921, which said instrument makes provision for the sale and purchase of the properties herein described and contains similar privileges and agreements relating to said properties, and other matters, yet nevertheless neither this instrument nor the execution, delivery and/or acceptance thereof shall be construed as satisfying, modifying, terminating or affecting any of the agreements, privileges or obligations of the parties arising under said instrument, under Sections IV, V, VIII and IX thereof, which relate to covenants on the part of the grantor that it will pay or has paid certain obligations and has delivered or will deliver to the grantee certain certificates of title and will bear certain risk of loss, and make certain financial adjustments after the transfer herein made and provided. But all of said agreements, covenants and obligations set forth in said sections shall continue unabridged in full force and effect.

The execution and delivery of this indenture is made by and with the written and acknowledged consent of the holders of more than two-thirds (⅔) of the capital stock of the grantor, which written consent is hereto attached, marked "Exhibit A" and made a part hereof by reference. And this indenture is furthermore made in accordance with Decision No. 9238 of the Railroad Commission of the State of California, in application No. 6917, entitled:

In the Matter of the Application of Citrus Belt Gas Company to sell and of Southern California Gas Company to buy certain property in the cities of Redlands, Colton and San Bernardino, in San Bernardino County, and in the city of Corona, in Riverside County, State of California; of Southern California Gas Company for certificates of public convenience and necessity to exercise certain franchises granted by said cities, or applied for; for the approval of a certain contract entered into between Citrus Belt Gas Company and Southern California Gas Company, as of date June 14, 1921, and of the Southern California Gas Company for permission to issue bonds pursuant to said contract.

And in accordance with the decisions of the Railroad Commission supplementary thereto made in said matter.

DECISION NO. 9358.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION FIXING FAIR AND REASONABLE RATES FOR GAS SUPPLIED TO ITS CONSUMERS.

Application No. 6108.

Decided August 15, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, Pacific Gas and Electric Company has filed with this Commission, in accordance with its Decision No. 9125 in the above entitled matter, a stipulation setting forth that on August 3, 1921, the price paid by it for oil was reduced 25 cents per barrel below that effective at its various plants on June 1, 1921, and as set forth in Decision No. 9125; and

Whereas, in Decision No. 9125 in the above entitled matter it was provided with reference to the various rate schedules therein established

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that the same would be subject to increase or decrease as set forth therein with the change in price of oil paid upon approval of the Railroad Commission of the State of California, such change to be to the nearest one cent;

It is hereby ordered, that the rates as set forth in Decision No. 9125 in Application No. 6108 be and they are hereby reduced as follows, effective for all meter readings taken on and after September 3, 1921:

Schedule G-1	5 cents per 1000 cubic feet
Schedule G-3	6 cents per 1000 cubic feet
Schedule G-4	5 cents per 1000 cubic feet
Schedule G-5	6 cents per 1000 cubic feet
Schedule G-6	6 cents per 1000 cubic feet
Schedule G-7	7 cents per 1000 cubic feet
Schedule G-8	8 cents per 1000 cubic feet
Schedule G-9	5 cents per 1000 cubic feet

It is hereby further ordered, that Pacific Gas and Electric Company file with the Commission on or before September 3, 1921, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this fifteenth day of August, 1921.

DECISION No. 9359.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO INCREASE ITS RATES FOR ARTIFICIAL GAS SUPPLIED TO THE CITY OF SANTA BARBARA AND UNINCORPORATED COMMUNITIES IN THE COUNTY OF SANTA BARBARA.

Application No. 5234.

Decided August 15, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, Southern Counties Gas Company of California has filed with this Commission, in accordance with Decision No. 9127 in the above entitled matter, a stipulation setting forth that on August 3, 1921, the price for oil paid by Southern Counties Gas Company of California for use in its Santa Barbara gas plant reduced from $2.54 to $2.29 per barrel, or 25 cents per barrel; and

Whereas, in the Commission's Decision No. 9127 it was specified relative to the rates therein:

> Upon the approval of the Railroad Commission of the State of California the above rates are subject to increase or decrease on the basis of 2.6 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the base cost of oil, which base cost herein is $2.54 per barrel at the company's plant. Change to be to the nearest cent.

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It is hereby ordered, that the rates set forth in Schedules Nos. 1, 2 and 3 in Decision No. 9127 in Application No. 5234 be and the same are reduced 6 cents per 1000 cubic feet, effective for all meter readings taken on and after the third day of September, 1921.

It is hereby further ordered, that Southern Counties Gas Company of California file with the Commission on or before September 3, 1921, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this fifteenth day of August, 1921.

DECISION NO. 9360.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN INCREASE IN AND A GENERAL ADJUSTMENT OF ITS RATES AND CHARGES FOR GAS TO BE SOLD AND DISTRIBUTED BY IT WITHIN THE CITY OF LOS ANGELES AND VARIOUS INCORPORATED AND UNINCORPORATED TERRITORIES IN THE VICINITY OF LOS ANGELES.

Application No. 6338.

Decided August 15, 1921.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, Los Angeles Gas and Electric Corporation has filed with this Commission, in accordance with Decision No. 9132 in Application No. 6326, a stipulation setting forth that on August 3, 1921, the price paid by Los Angeles Gas and Electric Corporation for oil was reduced from $1.75 to $1.50 per barrel, or 25 cents per barrel; and

Whereas, in Decision No. 9133 in Application No. 6338 it was provided with reference to Schedules Nos. A–1, A–4 and A–5 that:

> The above rates are subject to increase or decrease on the basis of 1 cent per 1000 cubic feet for each 10-cent increase or decrease, respectively, in the cost of oil as may from time to time be authorized on the system of the Los Angeles Gas and Electric Corporation, subject to the approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

It is hereby ordered, that the rates as set forth in Decision No. 9133 in Application No. 6338 designated as Schedules Nos. A–1, A–4 and A–5 be and they are hereby reduced by 2 cents per 1000 cubic feet, effective for all meter readings taken on and after September 3, 1921.

It is hereby further ordered, that Southern California Gas Company file with the Commission on or before September 3, 1921, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this fifteenth day of August, 1921.

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DECISION No. 9361.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR INCREASE IN RATES CHARGED FOR GAS.

Application No. 6326.

Decided August 15, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, Los Angeles Gas and Electric Corporation has filed with this Commission, in accordance with Decision No. 9132 in the above entitled application, a stipulation setting forth that on August 3, 1921, the price paid by Los Angeles Gas and Electric Corporation for oil was reduced from $1.75 to $1.50 per barrel, or 25 cents per barrel; and

Whereas, in Decision No. 9132 in the above entitled matter it was provided with reference to the rates therein established that:

> The above rates are subject to increase or decrease on the basis of 1 cent per 1000 cubic feet for each 10-cent increase or decrease, respectively, in the cost of oil above or below the price of $1.75 per barrel upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

It is hereby ordered, that the rates as set forth in Decision No. 9132 in Application No. 6326 designated as Schedules Nos. 1, 2, 3, 4 and "Class 'A' Industrial Service Limited," be and they are hereby reduced by 2 cents per 1000 cubic feet effective for all meter readings taken on and after September 3, 1921.

It is hereby further ordered, that Los Angeles Gas and Electric Corporation file with the Commission on or before September 3, 1921, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this fifteenth day of August, 1921.

DECISION No. 9364.

IN THE MATTER OF THE APPLICATION OF NEVADA, CALIFORNIA AND OREGON TELEGRAPH AND TELEPHONE COMPANY, TO ISSUE BONDS OF THE FACE VALUE OF FIFTEEN THOUSAND DOLLARS.

Application No. 2359.

Decided August 15, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 3532, dated July 21, 1916, as amended, authorized Nevada, California and Oregon Telegraph and Telephone Company to issue and sell, at not less than 80 per cent of face value, plus accrued interest, $15,000 of its first mortgage

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bonds for the purpose of reimbursing its treasury and for obtaining funds to finance the construction of a proposed toll line from Alturas to Cedarville, Modoc County, and of a telephone exchange in Cedarville, and

Whereas, applicant reports that it has issued and sold, at 82.65 per cent of face value, $8,800 of the $15,000 of bonds authorized to be issued by said Decision No. 3532, and

Whereas, applicant now asks permission to issue the remaining $6,200 of bonds on or before December 31, 1921, and to pledge them to secure the payment of a one-year 8 per cent promissory note for $5,000 in favor of Lassen Industrial Bank,

And it appearing to the Railroad Commission that applicant's request should be granted; now, therefore;

It is hereby ordered, that the order in Decision No. 3532, dated July 21, 1916, as amended, be and it is hereby modified so as to permit Nevada, California and Oregon Telegraph and Telephone Company to issue, on or before December 31, 1921, the remaining $6,200 of the bonds authorized to be issued by said Decision No. 3532, and to pledge them as security for its one-year 8 per cent promissory note for $5,000, and to use the money obtained through the deposit of the bonds to finance the cost of installing the new central office equipment at Susanville and to reimburse its treasury, all as indicated in the report filed by applicant with the Railroad Commission on August 11, 1921.

It is hereby further ordered, that the order in Decision No. 3532, dated July 21, 1921, as amended, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this fifteenth day of August, 1921.

DECISION NO. 9368.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF ITS TEN-YEAR SIX PER CENT NOTES OF THE PAR VALUE OF SIX HUNDRED THOUSAND DOLLARS.

Application No. 7079.

Decided August 16, 1921.

Chickering and Gregory, by *Allen L. Chickering,* for Applicant.

LOVELAND, *Commissioner.*

OPINION.

Western States Gas and Electric Company asks permission to issue and sell at not less than 83½ per cent of their face value and accrued

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interest $600,000 of 6 per cent notes due February 1, 1927, and use the proceeds to pay current indebtedness.

The testimony shows that applicant up to June 30, 1921, has expended $556,439.64 for additions and betterments, against which the Commission has not authorized the issue of stock, bonds or notes. Applicant's Exhibits "4," "5" and "6" filed in this proceeding contain a summary of its construction expenditures. To carry forward its construction work, applicant has found it necessary from time to time to issue notes and to secure credit on open account. Its note and open account indebtedness as of June 30, 1921, is reported at $837,318.85. It is to liquidate part of this indebtedness that applicant asks permission to issue and sell $600,000 of notes. Its earnings have been more than sufficient to pay operating expenses, fixed charges and meet its dividend payments.

The notes which applicant asks permission to issue are part of an authorized created indebtedness of $5,000,000 dated February 1, 1917. They mature February 1, 1927. In the agreement securing the payment of the notes, applicant covenants that it will not place an additional mortgage or other encumbrances upon its property, real, personal or mixed, unless and until it shall by mortgage or deed of trust secure the carrying out of the agreement and the payment of the principal and interest of the notes issued thereunder, equally and ratably with the bonds or notes or other obligations secured by such additional mortgage or deed of trust. This covenant is the only security for the payment of the notes, other than, of course, the promise of the company to pay such notes.

Applicant reports $3,231,500 of common and $2,906,000 of 7 per cent cumulative preferred stock outstanding on June 30, 1921. Its funded indebtedness in the hands of the public as of the same date is reported at $7,182,000 and consists of $213,000 of American River Electric Company 5 per cent bonds due 1933; $4,206,000 of Western States Gas and Electric Company 5 per cent bonds due 1941; $1,199,000 of Western States Gas and Electric Company 6½ per cent gold notes due August 1, 1923, and $1,564,000 of Western States Gas and Electric Company 6 per cent notes due February 1, 1927. In addition to the funded debt in the hands of the public, the company has issued and deposited $1,724,000 of Western States Gas and Electric Company 5 per cent bonds to secure the payment of the $1,199,000 of 6½ per cent gold notes.

I herewith submit the following form of order:

ORDER.

Western States Gas and Electric Company having applied to the Railroad Commission for permission to issue $600,000 of notes, a public hearing having been held and the Railroad Commission being of the

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opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in this order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to issue and sell, for cash, at not less than 83½ per cent of their face value and accrued interest $600,000 of 6 per cent notes due February 1, 1927, for the purpose of financing construction expenditures incurred on or before June 30, 1921, and through such financing use the proceeds obtained from the sale of the notes to pay part of the current indebtedness reported in the company's Exhibit "2" filed in this proceeding.

The authority herein granted is subject to further conditions as follows:

1. The authority herein granted to issue notes will not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

2. Western States Gas and Electric Company shall keep such record of the issue and sale of the notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such notes as may be issued, sold and delivered on or before December 1, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixteenth day of August, 1921.

DECISION NO. 9374.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER TO ISSUE ONE THOUSAND SHARES OF THE FIRST PREFERRED STOCK OF SAID CORPORATION AT EIGHTY-FIVE PER CENT OF THE PAR VALUE.

Application No. 7036.

Decided August 16, 1921.

Leo Sussman, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

Coast Counties Gas and Electric Company asks permission to issue and sell at not less than $85 per share 1000 shares ($100,000) of its

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6 per cent first preferred stock and use the proceeds to reimburse its treasury on account of earnings expended for additions and betterments to its plant and system.

Coast Counties Gas and Electric Company has an authorized stock issue of $4,000,000 divided into $1,000,000 of first preferred, $1,000,000 of original preferred and $2,000,000 of common stock. Stock in the amount of $2,180,000, consisting of $180,000 of first preferred, $1,000,000 of original preferred and $1,000,000 of common is outstanding.

The company's balance sheet as of June 30, 1921, Exhibit "B," shows funded debt in the hands of the public amounting to $1,421,000. As of the same date, the company reports $49,012.78 of notes and $71,078.91 of accounts payable.

In Exhibit "D" filed in this proceeding, the company reports that from July 1, 1917, to December 31, 1920, it expended the sum of $284,671.93 for additions and betterments to its plant and system. Of this amount, $1,425.49 has been financed through the sale of stock, the issue of which has heretofore been authorized by the Commission. Deducting the $1,425.49 from the $284,671.93 leaves $283,246.44, against which the Commission has not authorized the issue of stock or bonds.

The company asks permission to issue and sell $100,000 of its first preferred stock to reimburse its treasury and finance part of its construction expenditures incurred on or before December 31, 1920. The records show that the company has invested in its plant and business earnings in excess of $100,000. I am of the opinion that because of such investment, the company may properly be permitted to issue $100,000 of stock for the purpose of reimbursing its treasury.

I herewith submit the following form of order:

ORDER.

Coast Counties Gas and Electric Company having applied to the Railroad Commission for permission to issue $100,000 of its first preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in this order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Coast Counties Gas and Electric Company be and it is hereby authorized to issue and sell, for cash, at not less than $85 per share 1000 shares ($100,000) of its first preferred 6 per cent stock for the purpose of reimbursing its treasury on account of earnings expended for additions and betterments reported in Exhibit "D" filed

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in this proceeding and to finance in part the expenditures reported in said exhibit.

The authority herein granted is subject to further conditions as follows:

1. Coast Counties Gas and Electric Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

2. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before April 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixteenth day of August, 1921.

DECISION No. 9381.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY, OF FRANKLIN V. SPOONER, ROBERT R. PARDOW, AND JOHN C. RUED, AND OF HENRY E. COOPER, A. M. HUNT, JAMES D. PHELAN, GEORGE WHITTELL, DAVID R. FORGAN, I DE BRUYN, C. LEDYARD BLAIR, FREDERICK H. ECKER, STARR J. MURPHY, ROBERT W. MARTIN, WILLIAM SALOMON AND RICHARD B. YOUNG, AS THE REORGANIZATION COMMITTEE CONSTITUTED BY THE PLAN AND AGREEMENT OF REORGANIZATION OF WESTERN PACIFIC RAILWAY COMPANY FOR AUTHORIZATION OF PROCEEDINGS PURSUANT TO SAID PLAN AND AGREEMENT OF REORGANIZATION.

Application No. 2351.

Decided August 18, 1921.

A. R. Baldwin, Leslie J. Hinsdale and *Carl Taylor*, by *Carl Taylor*, for Applicant.

LOVELAND, *Commissioner.*

SECOND SUPPLEMENTAL OPINION.

In a supplemental petition filed July 22, 1921, in this proceeding, The Western Pacific Railroad Company reports that it has on deposit $7,087,085.30 obtained from the sale of the $20,000,000 of bonds, the issue of which was authorized by Decision No. 3453, dated June 22, 1916, as modified from time to time by supplemental orders in this proceeding.

Applicant reports that up to May 31, 1921, it expended for the acquisition of properties and the construction of improvements the sum of $4,012,966.44 and that none of these expenditures have been paid

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through the issue of bonds or stock. The expenditures are summarized as follows:

Niles-San Jose branch	$898,423 18
Calpine branch, from Hawley to Davies Mill	381,844 88
Bidwell spur, Bidwell to Bidwell Bar	27,273 96
Ellesbeck branch	17,064 54
Reno branch	240,421 76
Improvements, main line	912,404 94
Purchase of equipment—10 locomotives, 400 gondola and 1500 box cars, part payment	1,477,475 25
Construction, purchase and improvements to equipment	58,057 93
Total	$4,012,966 44

The record shows that applicant estimates that it will have to expend $1,607,457.88 more to complete its Niles-San Jose branch from Niles to San Jose, its Calpine branch from Hawley to Davies Mill, and its Bidwell spur from Bidwell to Bidwell Bar. Of this amount, $1,351,576.82 is allocated to the Niles-San Jose branch, $67,155.12 to the Calpine branch and $187,726.04 to the Bidwell spur. Applicant asks permission to use $4,012,966.44 of the proceeds obtained from the sale of the $20,000,000 of bonds to reimburse its treasury on account of expenditures incurred prior to May 31, 1921, and also to use not exceeding $1,607,457.98 of the proceeds from the sale of the bonds to pay the cost of completing the Niles-San Jose branch, the Calpine branch and the Bidwell spur. I have considered applicant's request and believe that it should be granted.

I herewith submit the following form of order:

SIXTH SUPPLEMENTAL ORDER.

The Western Pacific Railroad Company having asked permission to expend proceeds obtained from the sale of bonds, the issue of which the Commission has heretofore authorized, and the Commission being of the opinion that applicant's request should be granted subject to the conditions of this order;

It is hereby ordered, that the order in Decision No. 3453, dated June 22, 1916, as amended, be and it is hereby further amended so as to permit The Western Pacific Railroad Company to use $4,012,966.44 obtained from the sale of bonds, the issue of which is authorized by said order, to finance the construction expenditures incurred on or before May 31, 1921, reported in the supplemental petition filed July 22, 1921, in the above entitled matter, and to reimburse its treasury on account of such expenditures. Said order is further amended so as to permit the company to use not exceeding $1,607,457.98 obtained from the sale of said bonds to finance the construction costs which have been or will be incurred subsequent to May 31, 1921, to complete the Niles-San Jose branch, the Calpine branch, and the Bidwell spur, referred to in said

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supplemental petition, and to reimburse its treasury on account of such expenditures.

It is hereby further ordered, that the order in Decision No. 3453, dated June 22, 1916, as amended, shall remain in full force and effect, except as modified by this sixth supplemental order.

The foregoing second supplemental opinion and sixth supplemental order are hereby approved and ordered filed as the second supplemental opinion and sixth supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of August, 1921.

DECISION No. 9382.

IN THE MATTER OF THE APPLICATION OF MERCED IRRIGATION DISTRICT AND SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER APPROVING A CERTAIN AGREEMENT BETWEEN THE PARTIES; AND FOR A FURTHER ORDER FIXING AND ESTABLISHING THE RATE TO BE CHARGED AND PAID FOR ELECTRIC ENERGY TO BE SOLD AND DELIVERED UNDER THE PROVISIONS OF SAID AGREEMENT.

Application No. 6967.
Decided August 19, 1921.

IRRIGATION DISTRICT—SALE OF ELECTRIC ENERGY—BONDS—JURISDICTION.—The question whether an irrigation district should bond itself to develop water and power is outside the jurisdiction of the Railroad Commission.

SALE OF ELECTRIC POWER BY IRRIGATION DISTRICT—BASIS FOR RATE OF POWER AS BY-PRODUCT.—Proper basis of rate for sale of power as by-product held to be cost to power company's consumers of developing equivalent power elsewhere by future development of stream flow plants.

RATE FIXED.—It is found that 4.5 mills at plant switchboard is a reasonable rate for power to be sold by Merced Irrigation District to San Joaquin Light and Power Corporation.

A. L. Cowell, J. D. Galloway and *W. D. Wagner*, for Merced Irrigation District.

Murray Bourne, for San Joaquin Light and Power Corporation.

John S. Partridge, for Water Users and Tax Payers Association of Merced.

ROWELL AND BENEDICT, *Commissioners.*

OPINION.

Merced Irrigation District, hereinafter referred to as the irrigation district, and San Joaquin Light and Power Corporation, hereinafter referred to as the power company, jointly apply for the approval of two agreements between them, one covering the diversion of water by the irrigation district from one of the power company's hydroelectric plants, the other covering the sale of electric power to the power company by the irrigation district, and for the fixing of a reasonable rate to be paid for such power. The irrigation district joins in the application through its mutual interest in the approval of the contract and

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its recognition of the jurisdiction of the Railroad Commission over the power company.

The irrigation district proposes to bond itself and to construct a large storage dam across the Merced River near Exchequer, about twenty-five miles northeast of Merced, creating a reservoir of some 250,000 acre-feet capacity. The water of the Merced River stored therein during the flood season will later be released, allowed to follow the natural course of the stream for several miles and will then be diverted for use in the irrigation of lands around Merced. It is proposed to install a power plant at the dam and pass the water through this plant as it is released. The use of water will be primarily for irrigation purposes and its passage through this plant must be governed accordingly. Pondage in the river between the power plant and diversion dam will permit daily variation in the flow of water and the regulation of the load on the power plant to meet the requirements of the power company.

One of the contracts presented for approval and filed as Exhibit "B" provides that a power plant of 25,000-kilowatt capacity is to be built and operated by the irrigation district; that the output of this plant is to be measured at the switchboard but that the irrigation district will furnish step-up transformers and deliver power to the power company on the outgoing transmission line; that the plant is, within certain limits, to be operated at the load factor of the power company's system, and that the rate to be paid by the power company for the power shall be fixed by the Railroad Commission.

The power company now owns and operates a small generating station at Merced Falls, a few miles below the site of the Exchequer dam. The water supply and consequently the operation of this plant will be affected by the storage of water at Exchequer and the diversion of water from the stream above the Falls plant. A separate contract, filed in this proceeding as Exhibit "A," provides that the irrigation district shall pay the power company at the rate to be fixed herein for the decrease in the output of the present Merced Falls plant below a fixed standard. This is in effect a sale of part of the power company's water right and as such has already been approved by this Commission except as to compensation (Decision No. 9187, June 30, 1921). The contract now awaiting approval is that covering the sale of power from the Exchequer plant.

The Water Users and Tax Payers Association of Merced, an organization of property owners within the area covered by the district objecting to the bonding of the district for the construction of the proposed works, objects to the consideration by the Commission of the matters herein presented and at the same time urges that the Com-

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mission give consideration to the advisability of carrying out the development proposed. The question as to whether or not the people of this district should bond themselves as proposed is clearly outside of the jurisdiction of the Railroad Commission as fixed by law, is beyond the scope of the order requested by these applicants and is a matter to be settled only by the people of the district themselves.

The proposed development of hydroelectric power being as a by-product and for the purpose of realizing a profit which will partially carry the cost of the main irrigation works, the cost to the irrigation district of developing power is clearly not the proper standard by which to fix a rate for the sale of that power. It has been agreed by both applicants in this proceeding that the proper basis of such a rate is the cost to the power company's consumers of developing equivalent power elsewhere by the power company itself and all of the studies of the question have been made along this line.

The power company presented figures showing the average cost of hydroelectric and steam power as generated in its existing plants and after giving consideration to the relative amounts of steam and hydroelectric power that would be replaced by the proposed purchase of power arrived at a rate of 3.825 mills per kilowatt hour.

The irrigation district urges that the power which it proposes to deliver to the power company will be in addition to that now generated and instead of being substituted for part of the power now produced will be substituted for power which must otherwise be developed in the future and that the costs to be used should be those of future rather than past construction. Information before the Commission indicates that the power company will have little or no difficulty in absorbing the output of the Exchequer plant and we must, therefore, hold that the position of the irrigation district is sound.

Curves and data submitted by the applicants and by the Commission's engineering department show that the seasonal distribution of the output of the Exchequer plant will be very similar to that of the average hydroelectric plant depending upon unregulated stream flow for its water supply. At first thought this does not appear in keeping with the proposed storage and extensive use of water for irrigation purposes late in the summer. It must be remembered, however, that the plant which the district proposes to install operates under the head of water back of the dam and that as the storage is drawn upon this head decreases, falling quite rapidly as the reservoir is emptied and its area decreased. It appears reasonable to conclude that the value of power supplied by the irrigation district to the power company should be measured by the cost to the public of future developments of stream flow plants to be constructed by the utility.

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In an effort to determine the average cost of future developments calculations of the cost of power from a number of plants already built were submitted by J. D. Galloway, consulting engineer of the irrigation district, and by L. S. Ready, the Commission's assistant chief engineer. These costs are summarized in the following table:

TABLE No. 1.

Cost of Production of Hydroelectric Energy at Certain Power Plants.

	Mr. Galloway—mills per kilowatt hour	Mr. Ready—mills per kilowatt hour
San Joaquin Light and Power Corporation:		
Total hydroelectric output	4.32	
Kerckhoff plant	4.77	4.23
Southern California Edison Company:		
Stream flow plants, exclusive of Kern River No. 3		5.24
Kern River No. 3	6.50	6.40
Kern River No. 1		2.53
Borel		5.60
Average of stream flow plants		4.35
Same, increased by 3 per cent for general expense		4.48
Merced Irrigation District—Exchequer plant:		
Considering fixed charges on entire development	8.34	6.57
Considering fixed charges on power development only		1.95

It will be noted that Mr. Galloway's figures are uniformly higher than those of Mr. Ready. This difference is accounted for in general by a different method of handling such items as taxes and general expense. Mr. Galloway has included in the estimates of cost of production a proportion of state taxes, while Mr. Ready excluded this item on the ground that state taxes are levied as a percentage of gross revenue and will be the same whether the company buys power or produces it itself. Mr. Galloway since the hearing has advised that this inclusion was in error, agreeing in general with Mr. Ready. He has included in the cost of production a part of the general expense of the companies operating the individual plants considered, while Mr. Ready it will be noted has allowed for this item of cost after averaging the costs for various individual plants. The plants considered here are all on streams tributary to the southern San Joaquin Valley and are, as far as it is possible to find them, plants which have been built under the general physical conditions to be expected in future developments of San Joaquin Light and Power Corporation. Some of the plants considered were constructed many years ago when prices were much lower than at the present time and others, notably Kerckhoff plant of the San Joaquin Light and Power Corporation, and Kern River No. 3 plant of the Southern California Edison Company, were constructed during the extreme peak of high prices and represent costs which are in all probability considerably higher than those which will obtain in the future. Mr. Ready, therefore, considers that the average cost of power from these two classes of existing plants is a

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fair measure of the average cost of power from future developments and arrives at an average rate of 4.48 mills per kilowatt hour. He recommends that a rate of 4.5 mills per kilowatt hour be fixed in this proceeding as compared with the rate requested by the irrigation district of 6 mills and that urged by the power company of 3.825 mills.

An analysis of the average cost of power on the Southern California Edison Company's system submitted by Mr. Ready shows that the average cost of all hydroelectric energy produced by that company represents a charge of 4.25 mills per kilowatt hour on the power plant switchboard. The cost of power delivered at the end of the transmission line, including steam plant standby costs and accounting for losses in transmission, was 8.9 mills. This latter cost compares quite closely with the rate charged the Mount Whitney Power and Electric Company in 1919 for power delivered to it and other large wholesale power rates. Some question has arisen as to the higher rate of 7.5 mills recommended by Mr. Ready as the rate for power delivered from Great Western Power Company of California to Pacific Gas and Electric Company. In this instance the power, costing on the average 4.25 mills per kilowatt hour at the switchboard of the power house, is transmitted approximately 150 miles before delivery. On the same basis the cost increases to over 7.5 mills per kilowatt hour at the delivery point.

Applying this recommended rate of 4.5 mills per kilowatt hour to the energy output of the district as estimated by its own engineers shows a probable gross revenue from the sale of power of approximately $450,000 per year. On the same basis $190,000 per year should be deducted for the operating expense of the plant and the fixed charges on the additional development required for the production of electric power, leaving approximately $260,000 per year applicable to the fixed charges on the irrigation development. According to the estimates this is more than half of the fixed charges on the dam and reservoir required for irrigation purposes.

The contract specifies in section IX as follows:

> Irrigation district agrees, in case of an emergency or during the failure of other generating stations of power company not extending over twenty-four (24) hours, to operate its power plant at full capacity for that period.

This part of the agreement is not sufficiently definite in the limitations of the obligation of the district to meet the full approval of the Commission. The number of times a year that the district would be required under this contract to operate its plant in case of emergency should be limited to very few instances.

Viewing the situation from the standpoint of the irrigation district it would seem that a rate for power sold should be eminently satis-

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factory when it will not only cover the entire cost of producing the power but will in addition meet over half of the fixed charges on the cost of the dam and reservoir required for the irrigation development. This is particularly true when it is remembered that any additional amount received by the irrigation district for this power must in the end be paid by the consumers of the power company who are in general residents of the San Joaquin Valley and many of them residents of the territory covered by the irrigation district itself.

The power company has experienced a remarkable growth, the increase in its business during recent years amounting to about 25 per cent annually, and it has been no easy task for it to finance and construct power developments to meet the demands of its consumers. The development and delivery by the irrigation district of a substantial block of power will without question be of considerable assistance. If this power is delivered to the power company at a rate closely approximating the cost of similar power from its own future developments there can be no doubt that the purchase of this power will be of benefit to it and to its consumers.

We find that the proposed contract as filed in this proceeding should be approved and that 4.5 mills per kilowatt hour is a reasonable rate to be paid for the energy to be delivered thereunder.

We submit the following form of order:

ORDER.

Merced Irrigation District and San Joaquin Light and Power Corporation having applied to the Railroad Commission for an order approving certain agreements, copy of which were attached to the application filed herein and marked Exhibit "A" and "B," and for a further order fixing the rate for the purchase and sale of the electric energy to be sold under the terms of said contract marked Exhibit "B," and agreement marked Exhibit "A" having been approved by previous order of the Commission, a public hearing having been held for the presentation of evidence bearing on the approval of said agreement marked Exhibit "B" and on the fixing of said rate for electric power, the matter being submitted and now ready for decision:

It is hereby ordered, that San Joaquin Light and Power Corporation be and is authorized to enter into an agreement with Merced Irrigation District for the purchase of electric energy substantially in form as shown in Exhibit "B" filed in this proceeding modified to limit more definitely the obligation of the district to operate its plant in emergencies.

It is hereby further ordered, that 4.5 mills per kilowatt hour be and is declared to be a reasonable rate to be paid by San Joaquin Light

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and Power Corporation for power purchased from Merced Irrigation District in accordance with the terms of said contract.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this nineteenth day of August, 1921.

DECISION No. 9386.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE ADDITIONAL BONDS IN THE AMOUNT OF NINE HUNDRED TWENTY-NINE THOUSAND THREE HUNDRED EIGHTY-NINE DOLLARS AND TWENTY-SIX CENTS, AND TO SELL OR PLEDGE THE SAME.

Application No. 6306.

Decided August 19, 1921.

Walter S. McFarland, for Applicant.

BRUNDIGE, *Commissioner*.

FOURTH SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 8398, dated November 30, 1920, as amended, authorized Southern Counties Gas Company of California to issue $929,389.26 of its first mortgage 5½ per cent bonds due May 1, 1936, subject among others, to the condition that $501,713.60 of bonds be not deposited as collateral, sold or otherwise disposed of, except as authorized by the Railroad Commission; and

Whereas, the Railroad Commission has heretofore by supplemental orders in this proceeding authorized applicant to deposit as collateral $449,200 of the $501,713.60 of bonds, leaving $52,513.60 of bonds which the company has not been authorized to use as collateral or otherwise disposed of; and

Whereas, applicant in its fourth supplemental application in the above entitled matter reports that during May and June, 1921, it has expended $262,255.93 for permanent extensions, betterments and improvements to its existing plant and properties which have not been paid for by the issue of bonds; and

Whereas, applicant because of such expenditures asks permission to issue and deposit $196,900 of its first mortgage 5½ per cent bonds to secure the payment of $150,000 of Series "E" collateral trust bonds; a public hearing having been held and it appearing to the Railroad Commission that applicant should be permitted to use the $52,513.60

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of bonds, the issue of which was authorized by Decision No. 8398, dated November 30, 1920, as collateral and should be further permitted to issue and deposit as collateral additional first mortgage 5½ per cent bonds in the amount of $144,386.40; and that the money, property or labor to be procured or paid for by the issue and deposit of such bonds is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income: now, therefore;

It is hereby ordered, that the order in Decision No. 8398, dated November 30, 1920, as amended, be and it is hereby modified so as to permit Southern Counties Gas Company of California to use $52,513.60 of the $501,713.60 of first mortgage bonds referred to in Condition "2" of said Decision No. 8398 as collateral to secure in part the payment of $150,000 of Series "E" collateral trust 8 per cent gold bonds due December 1, 1930.

It is hereby further ordered, that Southern Counties Gas Company of California be and it is hereby authorized to issue and deposit as collateral as part security for the payment of $150,000 of Series "E" collateral trust 8 per cent gold bonds due December 1, 1930, $144,386.40 of its first mortgage 5½ per cent bonds.

The authority herein granted is subject to the following conditions:

1. All moneys obtained through the deposit of the $196,900 of first mortgage bonds herein permitted shall be used to reimburse applicant's treasury, and after such reimbursement to pay current indebtedness reported in the fourth supplemental petition filed in this proceeding.

2. The $196,900 of bonds herein authorized to be deposited shall be deposited at the ratio of $131.25 face value of first mortgage bonds for every $100 face value of collateral trust bonds issued. As the collateral trust bonds secured by first mortgage bonds are paid, a proper proportion of the first mortgage bonds deposited as collateral shall be returned to applicant and thereafter not disposed of by applicant in any manner whatsoever, except as authorized by the Railroad Commission.

It is hereby further ordered, that the order in Decision No. 8398, dated November 30, 1920, as amended, shall remain in full force and effect, except as modified by this fourth supplemental order.

The foregoing fourth supplemental order is hereby approved and ordered filed as the fourth supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this nineteenth day of August, 1921.

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DECISION No. 9387.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING THE ISSUANCE OF TEN-YEAR COLLATERAL TRUST GOLD BONDS, THE EXECUTION OF THE TRUST DEED AND MORTGAGE SECURING THE SAME AND THE PLEDGING OF FIRST MORTGAGE BONDS AS PART OF THE SECURITY THEREOF.

Application No. 6307.
Decided August 19, 1921.

Walter S. McFarland, for Applicant.

BRUNDIGE, *Commissioner.*

FOURTH SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 8399, dated November 30, 1920, as amended, authorized Southern Counties Gas Company of California to execute a trust deed securing the payment of an authorized issue of $1,000,000 of ten-year collateral trust 8 per cent gold bonds due December 1, 1930, and to issue and sell at 95 per cent of their face value plus accrued interest $400,000 of such bonds; and

Whereas, the Railroad Commission by supplemental orders in this proceeding authorized applicant to issue additional collateral trust bonds in the sum of $350,000; and

Whereas, applicant in its fourth supplemental petition filed in this proceeding asks permission to issue and sell at 95 per cent of their face value and accrued interest additional collateral trust bonds in the sum of $150,000, and to secure their payment by the deposit of $196,900 of its first mortgage bonds; and

Whereas, applicant reports that up to and including June 30, 1921, it has expended $274,533.15 for permanent extensions, betterments and improvements to its existing plant and property which have not been paid for by the issue of bonds; and

Whereas, the engineering department of the Railroad Commission has examined and found such expenditures reasonable, a public hearing having been held; and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income: now, therefore;

It is hereby ordered, that Southern Counties Gas Company of California be and it is hereby authorized to issue and sell, for cash, on or before December 31, 1921, at not less than 95 per cent of their face value plus accrued interest $150,000 of Series "E" ten-year collateral trust 8 per cent gold bonds and to use the proceeds to reimburse its

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treasury and, after such reimbursement, to pay current liabilities reported in the fourth supplemental petition filed in Application No. 6306.

The authority herein granted is subject to further conditions as follows:

1. The payment of the $150,000 of Series "E" ten-year collateral trust bonds herein authorized may be secured by the deposit of $196,900 of applicant's 5½ per cent first mortgage bonds. As the ten-year collateral trust bonds are redeemed, a proper proportion of applicant's first mortgage bonds deposited as collateral shall be returned to applicant and thereafter not disposed of in any manner whatsoever except as authorized by the Railroad Commission.

2. The authority herein granted to issue bonds will not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

3. Southern Counties Gas Company of California shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing fourth supplemental order is hereby approved and ordered filed as the fourth supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this nineteenth day of August, 1921.

DECISION No. 9389.

CITY OF AZUSA, A MUNICIPAL CORPORATION,

vs.

SOUTHERN COUNTIES GAS COMPANY, A CORPORATION.

Case No. 1594.

Decided August 20, 1921.

GAS UTILITY—SERVICE REQUIREMENTS.—Upon a showing that Southern Counties Gas Company is taking measures to assure adequate gas service in the city of Azusa, complaint of the city against the utility is dismissed.

Jas. E. Barker, for City of Azusa.

F. S. Wade, and *A. F. Bridge*, for Southern Counties Gas Company.

BENEDICT, *Commissioner.*

OPINION.

This complaint of the city of Azusa against Southern Counties Gas Company alleges that during past winter periods there has been a shortage of gas supplied by defendant in that city; that frequently

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many consumers have not been able to obtain sufficient gas to operate their appliances; that as a result of such gas shortages consumers have suffered financial losses and great inconvenience in being unable to prepare meals or to heat their dwellings and school houses, which constituted a menace to public health. Complainant further alleges that such gas shortages are due to the lack of proper pressure in the distribution pipes, some of which are claimed entirely inadequate in size, and that the transmission lines bringing gas to the city and also the compressor plant for pumping it are inadequate in capacity. It is further alleged that unless the existing situation is remedied prior to the coming winter of 1921–22, gas service conditions will be much more critical and unsatisfactory than in the past, wherefore complainant asks that the Railroad Commission investigate the matter and order defendant to provide larger transmission and distribution mains and to provide such other facilities as may be necessary to furnish an adequate and sufficient supply of gas to the city of Azusa.

Evidence was submitted in this proceeding by testimony of consumers in the city of Azusa setting forth the unsatisfactory gas service conditions which they had experienced, and testimony by defendant's engineer covering new facilities which are now being installed so that adequate service may hereafter be rendered. The matter was thereupon submitted and is now ready for decision.

The cities of Azusa and Glendora are supplied with gas from long transmission lines of small capacity obtaining their supply from a compressor plant located in the city of Pomona. There are no gas storage holders in either of these cities, their supply being entirely dependent upon transmission line capacity. During winter periods when gas pressures have generally been low in many districts of defendant's system, it has at many times been entirely impossible for consumers of Azusa to obtain a proper supply of gas for their requirements.

During the year 1920 defendant replaced 8000 feet of its two-inch transmission line supplying Azusa, with four-inch pipe at a cost of $7,100 and also installed two 80-horsepower compressors in its plant at Pomona. These additions, however, failed to remedy gas shortage conditions. Because of the heavy peak loads which exist for periods of only a few hours duration, it has been found imperative that a large supply of gas be maintained immediately available to the city of Azusa. In order to make this possible defendant is now constructing a gas storage holder of 100,000 cubic feet capacity which will be filled during off-peak hours from the transmission line, and will be capable of delivering its supply at relatively high pressures, varying between 5 and 15 pounds per square inch, to the distributing system.

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It is estimated that during the coming winter, a peak day gas requirement for the Azusa district of 100,000 cubic feet may be experienced. With normal operating pressures at Pomona and complete use of the new holder now being built, it is estimated that it will be possible to deliver about 170,000 cubic feet of gas per day in this district. Defendant is also at this time replacing several of its smaller distribution lines in order to improve service. Total expenditures for the holder and other improvements of its system in Azusa will exceed $26,000. In view of the apparent large excess capacity over estimated gas requirements which will shortly become available, I am of the opinion that the additional facilities now under construction will properly provide and assure adequate and satisfactory service when completed.

ORDER.

Complaint having been filed by the city of Azusa against Southern Counties Gas Company because of unsatisfactory gas service rendered, a hearing having been held and the matter submitted, and defendant having presented its plans for the prompt remedy and removal of such unsatisfactory conditions, and the prevention of future recurrence, the Railroad Commission of the State of California, after investigation, being of the opinion that the measures now being taken by defendant will assure adequate and satisfactory gas service henceforth to the city of Azusa and the surrounding district;

It is hereby ordered, that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this twentieth day of August, 1921.

DECISION No. 9390.

IN THE MATTER OF THE APPLICATION OF TITLE GUARANTEE AND TRUST COMPANY, A CORPORATION, AS TRUSTEE FOR THE BONDHOLDERS OF THE GLENDALE CONSOLIDATED WATER COMPANY, FOR LEAVE TO SELL, AND OF THE CITY OF SOUTH PASADENA, A MUNICIPAL CORPORATION, FOR LEAVE TO BUY, THE WATER PLANT AND SYSTEM LOCATED IN THE SAID CITY OF SOUTH PASADENA AND IN THE CITY OF LOS ANGELES, IN THE STATE OF CALIFORNIA, AND CONSISTING OF PIPE LINES, REAL ESTATE, RESERVOIR AND PUMPING SITES, WATER RIGHTS, FRANCHISES, RIGHTS OF WAY, EQUIPMENT, TOOLS AND SUPPLIES.

Application No. 7102.

Decided August 20, 1921.

E. W. Sargent, E. J. Vaughn, and *G. B. Colby*, attorneys for Title Guarantee and Trust Company.

William Haslett, attorney for City of South Pasadena.

BY THE COMMISSION.

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ORDER.

Title Guarantee and Trust Company, a corporation, as trustee for the bondholders of Glendale Consolidated Water Company, having applied to the Railroad Commission for permission to sell to the city of South Pasadena for $6,500 certain properties, including a water plant and system located in the city of South Pasadena and in the city of Los Angeles, a description of said properties being contained in Schedule "A," attached hereto, and the city of South Pasadena having joined in the application, and the Commission being of the opinion that this is not a matter on which a hearing is necessary and that this application should be granted: therefore;

It is hereby ordered, that Title Guarantee and Trust Company, a corporation, as trustee for the bondholders of the Glendale Consolidated Water Company, be and it is hereby authorized to sell to the city of South Pasadena, and the city of South Pasadena is hereby authorized to purchase the properties including the water plant and system referred to in this application and more particularly described in Schedule "A," attached hereto.

Within thirty (30) days after the date hereof, the Title Guarantee and Trust Company shall file with the Railroad Commission a verified copy of the deed under which it has transferred the title to the properties described in Schedule "A" to the city of South Pasadena, and shall also notify the Railroad Commission of the date on which it has given possession and control of the properties to the city of South Pasadena.

Dated at San Francisco, California, this twentieth day of August, 1921.

SCHEDULE "A."

The properties which the Title Guarantee and Trust Company, a corporation, as trustee for the bondholders of the Glendale Consolidated Water Company is authorized to sell to the city of South Pasadena by the order which precedes this schedule, as described in Exhibit "C" filed in this proceeding, consist of a complete water plant and system owned by the Title Guarantee and Trust Company and located within the corporate limits of the city of South Pasadena and/or within the corporate limits of the city of Los Angeles, in the county of Los Angeles, State of California, being a portion of the water plant and system formerly owned and operated by the Glendale Consolidated Water Company, and acquired at foreclosure sale by the Title Guarantee and Trust Company as trustee for the bondholders of said Glendale Consolidated Water Company, pursuant to a decree of foreclosure and sale, in action No. 94221, entitled *Title Guarantee and Trust Company,*

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plaintiff, vs. *Glendale Consolidated Water Company et al.*, defendants, which said water plant and system is more particularly described as follows:

A tract of land marked "Reservoir Site" on the map of Oakridge tract, in the said city of South Pasadena, county of Los Angeles, State of California, as per map recorded in book 11, page 22 of maps, in the office of the county recorder of said county.

Part of lot "B" of Ralph Rogers addition to Mineral Park tract, in the city of Los Angeles, in said county and state, as per map recorded in book 7, page 46 of maps, in the office of the said county recorder, described as follows:

Beginning at the northeast corner of said lot "B"; thence south 79 degrees 34 minutes west 174.6 feet; thence south 10 degrees 26 minutes east 46.2 feet; thence south 60 degrees 36 minutes west 148.40 feet; thence north 14 degrees 24 minutes west 125.7 feet; thence north 83 degrees 59 minutes east 150.13 feet; thence north 79 degrees 34 minutes east 161.6 feet, more or less, to the westerly line of Marmion way; thence southerly along said westerly line 23.36 feet, more or less, to the place of beginning; except that part included within the lines of the parcel of land conveyed by Ralph Rogers to Thaddeus Lowe by deed dated September 25, 1902, recorded in book 1687, page 57 of deeds, in the office of the recorder of said county.

Part of lot one (1) of Ralph Rogers Company's Oak Hill Park place, partly in the city of Los Angeles and partly in the city of South Pasadena, in said county and state, as per map recorded in book 8, page 186 of maps, in the office of said county recorder, described as follows:

Beginning at a point in the northerly line of said lot distant 32.14 feet south 52 degrees 23 minutes east from the northwest corner thereof; thence south 52 degrees 23 minutes east 120.36 feet; thence south 76 degrees 2 minutes east 44.7 feet; thence south 21 degrees 58 minutes west 286.6 feet; thence south 84 degrees 46 minutes west 271.53 feet; thence north 2 degrees 42 minutes east 109.6 feet; thence northerly to the place of beginning.

All waters and water rights in, of, or appurtenant to the said real property and the said water system, and situated in what is known as the Arroyo Seco, in the said city of South Pasadena and/or said city of Los Angeles, together with the water producing and distributing system used in connection therewith, including all rights of way, water pipes, water pipe lines, meters, pumping plants, electric motors, tools, machinery, materials and equipment (except automobile), together with all other properties, rights, title and interests now owned, held or possessed by said Title Guarantee and Trust Company, trustee as aforesaid, which formerly were owned, held or possessed by said Glendale Consolidated Water Company.

All of said real estate and property being conveyed subject to conditions, restrictions and reservations and rights of way of record, and subject to taxes for 1921–22.

DECISION NO. 9393.

IN THE MATTER OF THE APPLICATION OF MOUNTAIN EXPRESS COMPANY FOR PERMISSION TO CHANGE A RATE OR FARE, OR RATES OR FARES, AND FREIGHT CLASSIFICATION ON LESS THAN THIRTY DAYS' NOTICE.

Application No. 6619.

Decided August 23, 1921.

Warren E. Libby, for Applicant.

H. W. Kidd and *Rex Hardy*, for Estate of C. W. Curphey, deceased.

BY THE COMMISSION.

OPINION.

B. H. Vreeland and L. S. Everts, partners in business operating what is known as Mountain Express Company, by the above applica-

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tion seek authority to make certain modifications in their present tariffs, rules, regulations and classifications.

A public hearing upon the application was held by Examiner Westover at San Diego.

The testimony offered was not sufficient to justify increasing charges for the return of empty lug boxes and milk cans, nor to justify the proposed change in rule 4, by which all rates are made to apply from terminal station to terminal station only, thus eliminating free pick-up and delivery zones shown in the present rules. Proposed rule 6, providing for an extra charge for delivery on a second trip where delivery could not be made on the first trip through no fault of the carrier, should be modified by inserting the phrase "during reasonable business hours," as provided in the order herein.

Of the proposed changes to which applicant calls attention in the application, those hereinabove specified are the only ones which appear to be objectionable or not supported by the testimony.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and ready for decision;

It is hereby ordered, that authority to so change rule No. 4, section 1, as to limit the rates in applicant's tariff to transportation between terminal station and terminal station, is hereby denied.

Modification of rule No. 6 is hereby authorized, provided the first sentence thereof is changed to read as follows:

> Where one delivery is attempted during reasonable business hours and, through no fault of the carrier, he is unable to deliver shipment, an extra charge will be made for delivery.

Authority to increase the rate on empty lug boxes to 5 cents, and on empty ten-gallon milk cans to 25 cents, is hereby denied.

It is hereby further ordered, that when the tariff, rules, regulations and classifications are modified as hereinabove provided, they shall be filed with the Commission in the usual course.

Dated at San Francisco, California, this twenty-third day of August, 1921.

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DECISION No. 9394.

IN THE MATTER OF THE APPLICATION OF J. L. RANDOLPH, DOING BUSINESS UNDER THE NAME OF TURLOCK HOME TELEPHONE AND TELEGRAPH COMPANY, FOR AUTHORITY TO INCREASE RATES FOR TELEPHONE SERVICES, AND FOR AUTHORITY TO EXECUTE A MORTGAGE OF ALL HIS PROPERTY TO SECURE THE PAYMENT OF THE PROMISSORY NOTE.

Application No. 5487.

Decided August 23, 1921.

A. B. Rochl, for Applicant.

BRUNDIGE, *Commissioner*.

FIRST SUPPLEMENTAL ORDER.

A hearing having been held in the supplemental application filed in the above entitled matter and it appearing from the testimony that Turlock Home Telephone and Telegraph Company holds title to the properties which, in the original application, were reported to be owned by J. L. Randolph, and J. L. Randolph being the principal stockholder of Turlock Home Telephone and Telegraph Company and requesting that certain changes be made in the Commission's order of August 27, 1920, and the Commission being of the opinion that applicant's request should be granted;

It is hereby ordered, that the order in Decision No. 8011, dated August 27, 1920, be and it is hereby modified and amended so as to permit Turlock Home Telephone and Telegraph Company, instead of J. L. Randolph, to perform all the acts enumerated in said order. The Turlock Home Telephone and Telegraph Company will be required to comply with all terms and conditions of said order, except in so far as they have been complied with by J. L. Randolph and except as the terms and conditions may be modified by this first supplemental order.

It is hereby further ordered, that Turlock Home Telephone and Telegraph Company be and it is hereby authorized to execute a mortgage substantially in the same form as the mortgage attached to the supplemental petition filed July 15, 1921, in this proceeding, and to issue not exceeding $15,000 face value of 7 per cent notes payable on or before December 31, 1921, to refund notes issued by J. L. Randolph under the authority granted in Decision No. 8011, dated August 27, 1920, and to pay for additions and betterments referred to in this application.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of August, 1921.

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DECISION NO. 9396.

IN THE MATTER OF THE APPLICATION OF THE BEAR VALLEY UTILITY COMPANY, A CORPORATION, FOR AUTHORITY TO SELL CAPITAL STOCK AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE ACQUIRING OF RIGHTS OF WAY, NECESSARY LANDS FOR POWER HOUSES, OFFICES, ETC., AND FOR THE CONSTRUCTION OF A HIGH VOLTAGE LINE AND DISTRIBUTING SYSTEM FOR ELECTRIC ENERGY, FOR LIGHT, HEAT AND POWER IN BIG BEAR VALLEY, CALIFORNIA.

Application No. 7005.

Decided August 23, 1921.

McNabb and Hodge, by *R. W. Hodge*, for Applicant.
E. B. Criddle, for Southern Sierras Power Company.

BY THE COMMISSION.

OPINION.

In this application, as amended, The Bear Valley Utility Company asks for an order from the Railroad Commission authorizing it to acquire the franchise granted on June 27, 1921, to B. T. Ergenbright by the board of supervisors of San Bernardino County; permitting it to issue and sell $40,000 of its common capital stock; and declaring that public convenience and necessity require the construction and operation of an electric distributing system in Big Bear Valley, San Bernardino County.

No protest to the granting of this application was made at the public hearing which was held by Examiner Satterwhite in San Bernardino on August 15, 1921.

The record herein shows that The Bear Valley Utility Company was organized on June 30, 1921, with an authorized capital stock of $100,000, divided into 1000 shares of the par value of $100 each. The company proposes to engage in the business of buying, selling and distributing electric energy for light, heat and power in Big Bear Valley, San Bernardino County. The board of supervisors of San Bernardino County, by ordinance No. 193, approved June 27, 1921, have heretofore granted to B. T. Ergenbright, applicant's president, a franchise to erect, construct, operate and maintain, for a period of fifty years, an electric pole, tower and wire system in San Bernardino County, and more particularly in Big Bear Valley and Baldwin Lake. B. T. Ergenbright now asks permission to assign this franchise, and applicant asks permission to acquire it.

Big Bear Valley is situated in the mountains about eighteen miles northeast of Redlands, and is about twelve miles long and six miles wide. Its population, which is substantially a summer one only, amounts to approximately 8000 people during the summer months and to about 200 during the winter. Testimony herein shows that no

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electric utility at present operates in this region and that there is a general demand by the inhabitants for electric service.

The company has arranged to purchase power from The Southern Sierras Power Company at the Gold Mountain Mining Company's substation at Doble. From Doble, it is proposed to construct a 33-kilovolt transmission line a distance of eight miles, to a point on the south side of Big Bear Valley Lake and from such transmission line to construct distributing lines and service lines to the various summer camps and settlements.

Applicant estimates that it will be necessary to expend $34,000 to pay for its proposed construction work, of which amount approximately $2,000 will be used for rights of way, $12,000 for the high tension line, $12,000 for distributing lines, $4,000 for offices and $4,000 for working capital. In Exhibit 3, filed at the hearing, these construction expenditures are reported in detail.

To obtain $34,000, petitioner proposes to issue and sell, to prospective consumers, at not less than 85 per cent of par value, 400 shares ($40,000) of its common capital stock. The testimony of B. T. Ergenbright, applicant's president, and E. S. Goble, applicant's secretary, shows that subscriptions have been received of a large portion of this amount and that no difficulty is anticipated in disposing of the entire issue.

It is estimated that during the first year of operation 200 consumers will be served, a gross revenue of $12,072 will be received, and expenditures of $10,940 incurred, leaving a surplus of $1,132.

It is apparent that the development of this proposed distributing system is physically and financially possible, and should benefit the public.

ORDER.

The Bear Valley Utility Company having applied to the Railroad Commission for a certificate of public convenience and necessity and for permission to acquire a franchise and to issue stock, a public hearing having been held, and it appearing to the Railroad Commission that the application should be granted and that the money, property or labor to be procured or paid for by such issue of stock is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that The Bear Valley Utility Company be and it is hereby authorized to acquire from B. T. Ergenbright, and B. T. Ergenbright be and he is hereby authorized to assign to The Bear Valley Utility Company, the franchise granted said B. T. Ergenbright

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on June 27, 1921, by the Board of Supervisors of San Bernardino County by ordinance No. 193.

It is hereby further ordered, that The Bear Valley Utility Company be and it is hereby authorized to issue and sell, on or before February 28, 1922, at not less than 85 per cent of par value, 400 shares ($40,000) of its common capital stock.

The authority herein granted to issue stock is subject to further conditions as follows:

1. The proceeds from the sale of the stock herein authorized shall be used by applicant to finance the proposed construction work and for working capital, as described in Exhibit 3, filed in this application.

2. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The Railroad Commission hereby declares that public convenience and necessity require the exercise by The Bear Valley Utility Company of the rights and privileges granted by the board of supervisors of San Bernardino County on June 27, 1921, in ordinance No. 193, provided that The Bear Valley Utility Company, within thirty days from the date of this order, file with the Railroad Commission a stipulation duly authorized by its board of directors, declaring that it, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for such rights and privileges in excess of the amount actually paid to the county of San Bernardino as the consideration for the grant of such franchise, which amount shall be stated in the stipulation.

Dated at San Francisco, California, this twenty-third day of August, 1921.

DECISION No. 9397.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF THE COAST VALLEYS GAS AND ELECTRIC COMPANY, ON THE COMMISSION'S OWN MOTION.

Case No. 1611.

Decided August 23, 1921.

REASONABLE RATES—FAILURE TO REALIZE RETURN—POOR SERVICE—ACCRUED DEFICIT.—Compensation for previous reduced earnings not allowed. In the present case the utility will have had four months of return under the old

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rate since the reduction in the price of oil and in view of poor service during part of that period, request that present rates be continued in effect during calendar year denied.

H. G. Jorgensen, City Attorney, for Pacific Grove.

J. H. Andersen, City Attorney, for Salinas.

James F. Pollard, for Coast Valleys Gas and Electric Company.

LOVELAND, *Commissioner*.

OPINION.

This is an investigation on the Commission's own motion into the rates charged for gas and the gas service rendered by the Coast Valleys Gas and Electric Company, which manufactures gas and distributes it to consumers in the cities of Salinas, Monterey and Pacific Grove and contiguous territory.

The present rates for gas were established by this Commission in Decision No. 8937 in Application No. 6614, decided May 6, 1921. The increase granted at that time was in part based upon the price of fuel oil to the company. Subsequent to that date, on May 13, there was a general reduction in the field price of fuel oil of 25 cents per barrel. This investigation has been instituted to ascertain if the reduction of oil price has been made effective to the Coast Valleys Gas and Electric Company, and if so, to determine the reasonableness of the rates for the service rendered under the reduced cost of production.

A hearing was held in Salinas on July 8, 1921, at which time evidence was submitted to the effect that the price of oil to Coast Valleys Gas and Electric Company has been reduced 25 cents per barrel for oil received after May 12, 1921, and that the service conditions had not been changed materially since the hearing on Application No. 6614. It was stipulated that the records in evidence in Application No. 6614 may be considered in evidence in this proceeding.

The company submitted data showing that it had in the past failed to realize the return which the Commission has from time to time found reasonable and urges that, in order to reimburse it for a portion of the accrued deficit, the present rates should be continued at least to the end of the calendar year 1921.

Application No. 6614 was filed March 3, 1921, and the rates prescribed in Decision No. 8937 were effective on meter readings taken on and after May 20, 1921. This delay approximates two and one-half months. The present rates have been in effect three months since the reduction of 25 cents per barrel in the price of oil effective May 13, 1921, and before the reduction herein ordered becomes effective more than four months will have elapsed, which should fully compensate Coast Valleys Gas and Electric Company for increased oil cost during the period between the filing of Application No. 6614 and the increase of rates. As to the general reduced earning prior to May 20, 1921,

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I see no reason to depart from the position taken by this Commission in similar gas cases recently decided, where compensation for previous reduced earnings was not granted. This especially in view of poor service conditions existing during part of that period.

The company has filed a statement that a further reduction in the price of oil became effective on and after August 3, 1921. This reduction also amounts to 25 cents per barrel. The price of oil now paid is $1.50 per barrel at Monterey and $1.55 plus 32 cents freight at Salinas. The revised statement of the operating expenses based upon this price of oil is as follows:

Statement of Gas Operating Expenses for Coast Valleys Gas and Electric Company, Year 1921.

Production—	
Oil	$37,550 00
Other expenses	30,000 00
Distribution expense	9,330 00
Commercial expense	7,655 00
General expense	8,985 00
Uncollectible bills	50 00
Taxes	9,428 00
Total operating expenses	$102,798 00
Depreciation	8,010 00
Total	$110,808 00

The company's claim for an addition of $16,214 in the rate base to cover general capital chargeable to the gas department is justified.

The Commission's allowance for working cash capital and materials and supplies heretofore allowed is reasonable. Accordingly the rate base has been revised as follows:

Coast Valleys Gas and Electric Company Gas Properties.

Fixed capital, September 30, 1919	$211,426 16
Actual additions and betterments, September 30, 1919 to December 31, 1919	2,913 63
Actual additions and betterments, December 31, 1919 to December 31, 1920	50,659 71
Estimated additions and betterments, December 31, 1920 to June 30, 1921	9,600 00
Total fixed capital	$274,599 50
General capital, gas department	16,214 00
Working cash capital	9,225 00
Materials and supplies	10,612 00
Rate base	$310,650 00

The annual gross revenue which it was estimated would result from the application of the present rates as set forth in Decision No. 8937 was $147,600. After deducting the revised operating expenses and allowance for depreciation there remains $36,792 for net return. On

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the basis of the historical cost of money as followed in determining the reasonable return to be allowed it appears that reasonable compensation to the utility in the form of return on investment is $25,500. It is, therefore, reasonable to reduce the gross annual revenue by $11,292, which reduction will amount to approximately 15 cents per thousand cubic feet of sales.

The service conditions have been materially improved during the past year and the company states that it will continue until they are entirely satisfactory. There are, yet, several violations of the Commission's service standards and regulations which should be corrected as soon as possible.

The cost of oil is an important part of the expense of a gas utility such as Coast Valleys Gas and Electric Company. Material changes in the price of oil either upward or downward affect the earning of the utility and the reasonableness of the rates. A change of 10 cents per barrel in the price of oil changes the cost of gas to applicant approximately 3 cents per 1000 cubic feet sold. In order that further hearing will not be necessary upon change in oil prices the rates herein found reasonable will be made to vary with the price of oil.

I recommend the following form of order:

ORDER.

This Commission having instituted an investigation on its own motion into the gas rates, service and operations of the Coast Valleys Gas and Electric Company, an investigation having been made, a hearing having been held and the matter submitted:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in Decision No. 8937 should be modified to conform with the schedules herein set forth, and that the rates herein set forth are just and reasonable rates to be charged for gas service by the Coast Valleys Gas and Electric Company.

Basing its order on the foregoing finding of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Coast Valleys Gas and Electric Company charge and collect for gas service rendered by it, effective in the communities as therein set forth respectively, based on all regular meter readings taken on and after the first day of October, 1921, the following schedules of rates:

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SCHEDULE "A."

Domestic and Commercial Gas Service.

Character of service.

Gas of an average heating value of 570 British thermal units per cubic foot will be supplied under this schedule for lighting, heating and power service.

Territory.

This rate applies to the incorporated cities of Monterey and Pacific Grove and adjacent territory thereto.

Rate.

First 500 cubic feet or less, per meter per month	$1 10	
Next 2,000 cubic feet per meter per month	1 85	per M cubic feet
Next 2,500 cubic feet per meter per month	1 60	per M cubic feet
Next 5,000 cubic feet per meter per month	1 45	per M cubic feet
Next 5,000 cubic feet per meter per month	1 30	per M cubic feet
All over 15,000 cubic feet per meter per month	1 20	per M cubic feet

The above rates are subject to increase or decrease on the basis of 3 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the price of oil above or below the price of $1.50 per barrel upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

SCHEDULE "B."

Domestic and Commercial Gas Service.

Character of service.

Gas of an average heating value of 570 British thermal units per cubic foot will be supplied under this schedule for lighting, heating and power service.

Territory.

This rate applies to the incorporated city of Salinas and adjacent territory thereto.

Rate.

First 500 cubic feet or less, per meter per month	$1 10	
Next 2,000 cubic feet per meter per month	2 00	per M cubic feet
Next 2,500 cubic feet per meter per month	1 80	per M cubic feet
Next 5,000 cubic feet per meter per month	1 60	per M cubic feet
Next 5,000 cubic feet per meter per month	1 40	per M cubic feet
All over 15,000 cubic feet per meter per month	1 30	per M cubic feet

The above rates are subject to increase or decrease on the basis of 3 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the price of oil above or below the price of $1.87 per barrel upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

It is hereby further ordered, that in case of a reduction in the price of oil below the prices set forth in the opinion herein, the Coast Valleys Gas and Electric Company shall file within ten days thereafter an affidavit setting forth the new price of oil and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth.

It is hereby further ordered, that, should at any time an increase in price of oil occur, Coast Valleys Gas and Electric Company may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increase in rates as determined from an application of the rates herein set forth.

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It is hereby further ordered, that Coast Valleys Gas and Electric Company shall, within ten days of the date of this order, file with the Commission the schedule of rates herein set forth.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of August, 1921.

DECISION No. 9401.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING THE ISSUANCE OF BONDS, THE EXECUTION OF A MORTGAGE OR DEED OF TRUST TO SECURE THE SAME, AND THE EXECUTION AND DELIVERY OF TEMPORARY CERTIFICATES TO BE THEREAFTER EXCHANGED FOR SUCH BONDS.

Application No. 6574.

Decided August 23, 1921.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 8731, dated March 10, 1921, as amended, authorized The California-Oregon Power Company to issue and sell, at not less than 95 per cent of face value, plus accrued interest, $1,849,000 of interim certificates, and to issue in exchange for such interim certificates, $1,849,000 of its first and refunding mortgage sinking fund 7½ per cent bonds, subject, among others, to the condition that all moneys received from the sale of the interim certificates or from the sale of the bonds be deposited with a trustee or trustees under a proper escrow agreement, and after being released, expended only for such purposes as the Railroad Commission might authorize in a supplemental order or orders; and

Whereas, the Railroad Commission, by decisions No. 9190, dated June 30, 1921, and No. 9305, dated July 30, 1921, authorized applicant to use $1,144,045.88 of the proceeds received from the sale of said $1,849,000 of bonds, or interim certificates, to pay floating indebtedness and to finance construction expenditures reported in the third supplemental application in the above entitled matter; and

Whereas, applicant in its fourth supplemental application filed in this proceeding reports that during the month of June, 1921, it has expended on capital account the sum of $50,128.79 and asks permission to use $50,128.79 of the proceeds from the sale of the bonds, or

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the interim certificates, authorized to be issued and sold by said Decision No. 8731, as amended, to finance such expenditures;

And, the Railroad Commission being of the opinion that applicant's request should be granted: now, therefore;

It is hereby ordered, that the order in Decision No. 8731, dated March 10, 1921, as amended, be and it is hereby modified so as to permit The California-Oregon Power Company to expend an additional $50,128.79 of the proceeds realized from the sale of the bonds, or interim certificates, authorized to be issued and sold by said decision, for the purpose of financing the capital expenditures reported in the fourth supplemental application in this proceeding.

It is hereby further ordered, that the order in Decision No. 8731, dated March 10, 1921, as amended, shall remain in full force and effect, except as modified by this fourth supplemental order.

Dated at San Francisco, California, this twenty-third day of August, 1921.

DECISION No. 9403.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR PERMISSION TO SELL CERTAIN OF ITS EQUIPMENT CONSISTING OF ROLLING STOCK AND TO MORTGAGE CERTAIN OF ITS REAL ESTATE.

Application No. 6933.

Decided August 23, 1921.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission having, by Decision No. 9242, dated July 16, 1921, authorized San Diego and Arizona Railway Company to sell certain equipment consisting of five locomotives and two tank cars at its depreciated value, and applicant having reported that inadvertently the term "depreciated value" instead of "the present value" was used in the original petition, and that it is the intention of applicant to sell its equipment at its present value which is reported at $202,400 instead of its depreciated book value of $138,629.37, and applicant having requested the Commission to modify its decision of July 16, 1921, and the Commission being of the opinion that said decision should be modified as herein provided;

It is hereby ordered, that the order in Decision No. 9242, dated July 16, 1921, be and it is hereby modified so as to permit San Diego and Arizona Railway Company to sell for $202,400 the equipment described in Exhibit "B" filed in this proceeding, provided that the

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price at which applicant is authorized to sell said equipment will not be urged before this Commission as a measure of the value of said equipment for the purpose of fixing rates, or any purpose other than the transfer herein permitted.

It is hereby further ordered, that the order in Decision No. 9242, dated July 16, 1921, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-third day of August, 1921.

DECISION No. 9404

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY TO INCREASE RATES FOR ITS SERVICE IN RIVERSIDE AND SAN BERNARDINO COUNTIES.

Application No. 5903.

CITY OF RIVERSIDE, A MUNICIPAL CORPORATION,

vs.

SOUTHERN CALIFORNIA GAS COMPANY, A CORPORATION.

Case No. 1407.

Decided August 23, 1921.

GAS UTILITY—FRANCHISE TAX.—Where a utility serves two or more cities, a 2 per cent franchise tax on gross revenue imposed by one of the cities must be borne by the consumers of this city, and not spread over the whole field of operation of the utility.

RATE OF RETURN—COST OF MONEY—HAZARD OF BUSINESS.—In view of the high cost of money and the greater hazard attaching to the service of natural gas, a return of 9 per cent is held just and reasonable in this particular case.

Jared How, for Southern California Gas Company.

Wm. Guthrie, City Attorney, *Jerome B. Kavanaugh*, for City of San Bernardino.

G. A. French and *M. Estudillo*, City attorney, for City of Riverside.

W. S. McNab, for Citrus Belt Gas Company.

BRUNDIGE, *Commissioner.*

OPINION.

Case No. 1407 is a complaint by the city of Riverside against Southern California Gas Company in which it is alleged that the rates charged by that company in Riverside for natural gas are excessive and that the service rendered by it is unsatisfactory. Application No. 5903 is a petition by Southern California Gas Company for authority to increase its rates for gas service in its Riverside and San Bernardino districts. These two matters were consolidated for hearing and decision, inasmuch as the distributing systems and business of Southern California Gas Company are so interconnected and related throughout the whole Riverside-San Bernardino territory.

Southern California Gas Company, hereinafter referred to as gas company or applicant, alleges that its actual operating expenses were

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greater than estimated by the Commission when the present rates were determined; that because of this and other conditions beyond its control applicant has failed to earn a reasonable return upon a fair value of its properties; that since October 13, 1919, applicant has been supplying natural gas in its Riverside and San Bernardino districts, and that this high heating value gas, in displacing artificial gas, has materially reduced its sales in cubic feet and its revenue.

Extended hearings in these proceedings were held in Riverside and in Los Angeles and the matter was thereupon submitted.

Citrus Belt Gas Company, a utility operating in San Bernardino and Colton, and distributing artificial gas in competition with Southern California Gas Company, intervened in this proceeding asking that the Railroad Commission require the Southern California Gas Company to sell to it, at wholesale, a supply of natural gas which it believed could be procured at a cheaper price than artificial gas could be produced, and thereby provide its consumers with a gas of quality equal to that delivered by the Southern California Gas Company. However, since the submission of this matter an agreement has been entered into between Citrus Belt Gas Company and Southern California Gas Company for the purchase of the former's properties by the latter company. This agreement for purchase has already been approved by the Railroad Commission (Decision No. 9238 in Application No. 6917, dated July 15, 1921). The purchase of the Citrus Belt properties eliminates the question raised by that company and makes unnecessary further consideration of this phase of the proceeding.

The complaint of the city of Riverside alleges that Southern California Gas Company has been supplying natural gas procured from natural sources without any expense for manufacture, at rates previously charged for artificial gas, which is claimed to be unjust and unreasonable. It is further alleged that the quality of gas supplied is variable and unsatisfactory and that the service rendered is likewise unsatisfactory. Plaintiff prays that the Railroad Commission order that a hearing be held and ascertain and fix just and reasonable rates for gas and standards for service.

When natural gas service was commenced in this locality considerable annoyance was experienced, due to the changed gas quality. Applicant, however, maintained the necessary crews to adjust, free of charge, gas stoves and other appliances so that they would operate satisfactorily with natural gas. The city attorney of Riverside stated at a hearing of this matter that the present gas service conditions are satisfactory, therefore this phase of the complaint is now removed.

Southern California Gas Company had, prior to October 13, 1919, operated an artificial gas system in the cities of Riverside and San

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Bernardino and contiguous territory. Gas was generated at a central plant located at Colton and distributed from there under high pressure. During the fall of 1918 an 8-inch transmission line was laid from Chino to Colton, a distance of about 22 miles, and natural gas purchased from Southern Counties Gas Company was introduced into its system, supplanting almost completely, except during the winter period, the artificial gas formerly produced. The introduction of natural gas into these districts has provided consumers with a gas of much higher heating value than was previously obtained. This has resulted in a reduction of the total cubic foot sales by applicant and in the cost of service to gas consumers. This reduction in sales has been the cause, very largely, of the reduction of applicant's revenue, both gross and net, from these districts. During the past year applicant's operating costs have increased materially and the percentage of return upon its investment has correspondingly decreased.

In this proceeding evidence was introduced by Wm. Guthrie, city attorney of San Bernardino, to indicate that the rate base fixed by this Commission in its Decision No. 5337, in Application No. 1853, (Opinions and Orders of the Railroad Commission of the State of California, Volume 15, page 608), was excessive and considerably higher than the investment as shown by the company's books. It was urged by Mr. Guthrie that the appraisal of operative property included allowances for gas ares and an unreasonable amount of real estate, and that consideration had not previously been given to the evidence of the value of the gas properties as found by the Superior Court of San Bernardino in 1913.

It was alleged that the Commission's valuation of the properties used in its findings in Application No. 1853 was $100,000 more than was actually set up on the company's books. It was further urged that consideration should be given to an appraisal made by Mr. Barrett for J. G. White Company; a copy of this appraisal, which was introduced in the case before the Superior Court of San Bernardino County in 1913, was included in evidence in this proceeding. A study of this valuation shows that it was of a very general character, there apparently having been no detailed inventory of the property made nor a careful determination of the cost of construction. A study of the records of the company and of this Commission shows that the Commission's former appraisal included approximately nine miles of 2-inch main which can not at this time be accounted for. I find that the Commission's previous valuation should be corrected by the deduction of this nine miles of 2-inch main.

I have had a thorough examination made of the records of the Commission and also an investigation into the records of the company and

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of the value of certain other of applicant's properties which have been brought into question to determine the reasonable historical reproduction cost of the properties of the Southern California Gas Company used in serving San Bernardino and Riverside. I find that the following tabulation, which embodies the above revision, sets forth the reasonable historical cost of applicant's properties in its Riverside and San Bernardino districts. There is also shown a revised statement of the remaining value of nonoperative property to be amortized, together with the necessary annuity computed on a 6 per cent sinking fund basis, which will provide for amortization in a period of seven additional years and pay 6 per cent interest upon the unamortized balance.

TABLE I.

Southern California Gas Company—Summary of Rate Base, Depreciation Annuity, Amortization Annuity, September 30, 1920.

	Rate base	Depreciation annuity, 6 per cent sinking fund
Operative property:		
Colton plant	$119,068 95	$2,555 61
Riverside division	277,748 31	5,984 89
San Bernardino division	367,200 40	8,699 08
Chino-Colton line	142,141 57	10,665 00
	$906,159 23	$27,904 58
Working cash capital and materials and supplies	54,000 00	
Total rate base	$960,159 23	$27,904 58
Allocation of operative capital to districts:		
Riverside division	$429,248 30	$12,358 95
San Bernardino	530,910 93	15,904 58

Amortization of Nonoperative Property.

Nonoperative property	Reproduction cost, new	Amount to be amortized, 7 years	Amortization annuity, 6 per cent sinking fund
Riverside division	$18,061 88	$6,009 97	$1,076 63
San Bernardino division	39,310 98	10,696 73	1,916 21
Totals	$57,372 86	$16,706 70	$2,992 84

From a study of the evidence introduced by Southern California Gas Company and also from reports prepared by the Commission's engineers covering investigations of this matter, the following synopsis has been prepared of applicant's operations in its Riverside and San Bernardino districts for the year ending September 30, 1920, together with an estimate for the year ending September 30, 1921, under the

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present rates. This table covers operations only of the original properties of Southern California Gas Company.

TABLE II.

Southern California Gas Company—Summary of Operations, Riverside and San Bernardino, Under Present Rates.

	Riverside district		San Bernardino district	
	1920	Estimated, 1921	1920	Estimated, 1921
Sendout, M cubic feet	131,994	167,200	139,853	181,000
Domestic sales	103,063	130,580	108,279	141,230
Unaccounted for	28,931	36,620	31,574	39,770
Consumers	3,922	4,210	4,138	4,730
Gross revenue	$104,047	$137,370.	$115,029	$154,082
Operating expense	92,568	108,483	106,269	130,463
Net return	11,479	28,887	8,760	23,619
Approximate rate base		429,250		530,910
Per cent return		6.75%		4.45%

It will be noted from the above table that the estimated operations for the year 1921 show a material increase in gas sales and revenue over the year 1920. This should result from the general growth of the districts and from the new uses which will be made of natural gas now being served. The costs of service in the city of San Bernardino are somewhat higher than in Riverside. This is due largely to higher distribution costs and to the payment of local franchise taxes. Since the submission of this application applicant has been required to obtain from the city of San Bernardino a franchise covering the distribution and sale of gas. This franchise requires the payment by it of 2 per cent of its gross revenue to the city. Necessarily this operating expense must be borne by the consumers of San Bernardino and not spread over the consumers in Riverside and outlying towns. Corrections have been made in the estimates of general expense items for the proper charging of a certain portion of these expenses to capital accounts rather than to operating accounts, as has been the practice of applicant in the past. Deductions have been made from both revenues and expenses for gas arcs operations which was a subject of special contention by the city of San Bernardino.

Applicant has asked that it be granted authority to establish such rates as may be necessary to yield a 9 per cent return upon its investment. After a study of the cost of bond money to Southern California Gas Company, I find the average cost to date has been approximately 7 per cent, with even higher costs for recent issues. In view of the present high cost of borrowed money, it appears just and reasonable to permit a return of 9 per cent in this particular case, especially when

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consideration is given to the greater hazard attaching to the service of natural gas and to the fact that applicant has made special efforts to reduce the cost of gas service to its consumers by the effecting of substantial economies.

The present domestic rates in the cities of Riverside and San Bernardino are as follows:

First	3,000 cubic feet	$1 20 per M cubic feet
Next	5,000 cubic feet	1 10 per M cubic feet
Next	7,000 cubic feet	1 00 per M cubic feet
Next	15,000 cubic feet	80 per M cubic feet
Next	20,000 cubic feet	60 per M cubic feet
All over	50,000 cubic feet	50 per M cubic feet

Minimum charge $0.60 per meter per month.

In the surrounding unincorporated territory the rates are approximately 10 cents per 1000 cubic feet higher than for the first 8000 cubic feet.

The rates set forth in the following order should provide applicant a return of 9 per cent upon the fair valuation of its properties after meeting all proper expenses for operation, maintenance and depreciation. The rate in San Bernardino has been made approximately 5 cents per 1000 cubic feet higher than in Riverside to cover franchise tax and generally higher costs.

I submit the following form of order:

ORDER.

Southern California Gas Company having applied to the Railroad Commission for an order establishing gas rates to be charged by it in its Riverside and San Bernardino divisions, public hearings having been held, briefs having been filed, and the matters having been submitted and being now ready for decision:

The Railroad Commission hereby finds as a fact that the rates now charged by Southern California Gas Company for gas are not just and reasonable rates, and that the rates hereinafter established are just and reasonable rates for gas service rendered in its Riverside and San Bernardino divisions.

It is further found that the alleged unjust and unreasonable rates and alleged unsatisfactory gas service conditions as set forth in the complaint of the city of Riverside against Southern California Gas Company do no longer exist and that the service is now satisfactory.

Basing its order upon the foregoing findings of fact and upon the other findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that the complaint of the city of Riverside against the Southern California Gas Company, Case No. 1407, be and the same is hereby dismissed.

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It is hereby further ordered, that Southern California Gas Company be and is hereby authorized to charge and collect for gas service the rates set forth in the following schedules for the districts enumerated, based on all regular meter readings taken on and after the first day of October, 1921.

SCHEDULE No. C-1.

Riverside Division.

GENERAL SERVICE FOR LIGHTING, HEATING AND COOKING.

Applicable to domestic and commercial service, for lighting, heating, cooking, etc.

Territory.

Applicable within the incorporated limits of the city of Riverside.

Rate.

First	3,000 cubic feet per meter per month	$1 25 per M cubic feet
Next	7,000 cubic feet per meter per month	1 15 per M cubic feet
Next	10,000 cubic feet per meter per month	1 05 per M cubic feet
Next	30,000 cubic feet per meter per month	90 per M cubic feet
All over	50,000 cubic feet per meter per month	75 per M cubic feet

Minimum charge $1 per meter per month.

Special conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under schedules Nos. C-4, C-5 and C-6, at times when there may be an insufficiency of gas to supply the demands of all consumers.

SCHEDULE No. C-2.

San Bernardino Division.

GENERAL SERVICE FOR LIGHTING, HEATING AND COOKING.

Applicable to domestic and commercial service, for lighting, heating, cooking, etc.

Territory.

Applicable within the incorporated limits of the city of San Bernardino.

Rate.

First	3,000 cubic feet per meter per month	$1 30 per M cubic feet
Next	7,000 cubic feet per meter per month	1 20 per M cubic feet
Next	10,000 cubic feet per meter per month	1 07 per M cubic feet
Next	30,000 cubic feet per meter per month	92 per M cubic feet
All over	50,000 cubic feet per meter per month	77 per M cubic feet

Minimum charge $1 per meter per month.

Special conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under schedules Nos. C-4, C-5 and C-6, at times when there may be an insufficiency of gas to supply the demands of all consumers.

SCHEDULE No. C-3.

Riverside-San Bernardino Divisions.

GENERAL SERVICE FOR LIGHTING, HEATING AND COOKING.

Applicable to domestic and commercial service, for lighting, heating, cooking, etc.

Territory.

Applicable to all territory within the Riverside and San Bernardino divisions, including all incorporated and unincorporated territory, except the incorporated cities of Riverside and San Bernardino.

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Rate.

First	3,000 cubic feet per meter per month	$1 35	per M cubic feet
Next	7,000 cubic feet per meter per month	1 25	per M cubic feet
Next	10,000 cubic feet per meter per month	1 10	per M cubic feet
Next	30,000 cubic feet per meter per month	95	per M cubic feet
All over	50,000 cubic feet per meter per month	80	per M cubic feet

Minimum charge $1 per meter per month.

Special conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under schedules Nos. C–4, C–5 and C–6, at times when there may be an insufficiency of gas to supply the demands of all consumers.

SCHEDULE No. C–4.

Riverside and San Bernardino Divisions.

COMMERCIAL, RESTAURANT AND HOTEL SERVICE.

Applicable to hotels, restaurants, bakeries, hospitals, etc., whose requirements for gas are not strictly dependent upon atmospheric temperature.

Territory.

All territory within the Riverside and San Bernardino divisions, both incorporated and unincorporated.

Rate. For guaranteed minimum usage of 50,000 cubic feet per meter per month.

First	50,000 cubic feet per meter per month	$0 80	per M cubic feet
All over	50,000 cubic feet per meter per month	70	per M cubic feet

Minimum charge, for continuous service, $40 per meter per month.

Special conditions.

Consumers served under this schedule are subject to the prior use of consumers served under schedules Nos. C–1, C–2 and C–3, but have priority over consumers served under schedules Nos. C–5 and C–6 at times when there may be an insufficiency of gas to supply the demands of all consumers.

SCHEDULE No. C–5.

Riverside and San Bernardino Divisions.

FURNACE AND HEATING SERVICE.

Applicable to service for steam boilers and furnaces, for heating buildings and for industrial purposes.

Territory.

All territory within the Riverside and San Bernardino divisions, including both incorporated and unincorporated territory.

Rate.

Consumption charge per meter per month ..... $0 70 per M cubic feet

Minimum charge.

$5 per meter per month.

Special conditions.

Service taken under this schedule is subject to discontinuance in favor of consumers served under schedules Nos. C–1, C–2, C–3 and C–4 at times of actual or threatened gas shortage.

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SCHEDULE No. C–6.

Riverside and San Bernardino Divisions.

GAS ENGINE SERVICE.

Applicable to service for internal combustion engines only.

Territory.

All territory within the Riverside and San Bernardino divisions, including all incorporated and unincorporated territory.

Rate.

First	200,000 cubic feet per meter per month	$0 55 per M cubic feet
Next	300,000 cubic feet per meter per month	50 per M cubic feet
All over	500,000 cubic feet per meter per month	45 per M cubic feet

Minimum charge.

From May to October, inclusive	$5 00 per meter per month
From November to April, inclusive	1 00 per meter per month

A cumulative annual minimum of $56 per meter may be charged in place of the above monthly minimum.

Special conditions.

Consumers served under this schedule are subject to the prior use of consumers under schedules Nos. C–1, C–2, C–3, C–4 and C–5.

SCHEDULE No. C–7.

Riverside and San Bernardino Divisions.

INDUSTRIAL SERVICE.

Applicable to the service of gas for use in metal working plants, canning establishments, incinerators, kilns, boilers and other industrial establishments, whose demands for gas are not dependent upon atmospheric temperature, or upon the preparation of meals and whose time of maximum demand, if any, does not coincide with the maximum demand of consumers served under schedules Nos. C–1, C–2, C–3, C–4, C–5 and C–6.

Territory.

All territory within the Riverside and San Bernardino divisions, both incorporated and unincorporated.

Rate.

First	500,000 cubic feet per meter per month	$0 36 per M cubic feet
All over	500,000 cubic feet per meter per month	30 per M cubic feet

Minimum charge.

From May to October, inclusive	$15 00 per meter per month
From November to April	1 00 per meter per month
For continuous yearly service	96 00

Special conditions.

In consideration of the reduced rates, service hereunder is subject to discontinuance immediately upon notice in case of an actual or threatened shortage of supply of natural gas. Consumers served under this schedule will in times of gas shortage be discontinued service in favor of consumers served under other schedules, and are therefore expected to maintain adequate supplies of other fuels. This schedule is for the sale of strictly surplus natural gas and is not applicable to the use of gas for heating, lighting, cooking, etc The company will not be liable for damages occasioned by shutting off of gas supply.

It is hereby further ordered, that Southern California Gas Company shall within twenty days from the date of this order file with the Railroad Commission the schedules of rates herein established.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of August, 1921.

DECISION No. 9405.

TOWN OF SAUSALITO, A MUNICIPAL CORPORATION,

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY, A CORPORATION.

Case No. 1497.

Decided August 23, 1921.

PASSENGER FARES—REASONABLENESS THEREOF.—Round trip fares between San Francisco and Sausalito and between San Francisco and San Rafael held to be not excessive; in fact, these fares were increased but once following federal control. The one-way rate of $1.18 for automobile carriage complained of also found to be reasonable.

Chas. W. Byrnes, for Complainant.

Stanley Moore, for Defendant.

LOVELAND, *Commissioner*.

OPINION.

The complaint in this case was filed pursuant to a resolution introduced in and adopted by the board of trustees of the town of Sausalito directing the filing thereof by the town attorney of said town of Sausalito.

Complainant attacks certain fares of the Northwestern Pacific Railroad Company as excessive, unreasonable, not uniform and as discriminatory against the citizens of said town of Sausalito.

Complainant attacks in like manner and upon the same grounds the one-way charge for the transportation of automobiles on ferry boats of defendant between San Francisco and Sausalito, and prays that the rates of said defendant be investigated and that a reasonable, just system of rates be prescribed.

That we may arrive at a logical solution of the matter presented, a brief summary of the steps leading up to and including the final increase of fares granted common carriers beginning with the war period is imperative.

At the time the federal government assumed control of the great majority of railroads in the United States on December 29, 1917, the

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passenger rates primarily involved in the case in question and which had been in effect for many years were as follows:

	Without baggage checking privilege		With baggage checking privilege	
	One way	Round trip	One way	Round trip
Between San Francisco and—				
Sausalito	None	None	15	25
San Rafael	None	None	35	50
Between Sausalito and—				
Pine	None	None	05	----------
San Rafael	None	None	25	40

No increase in any of the above quoted rates was made until some time after the promulgation of General Order No. 28 of the Director General, United States Railroad Administration, dated May 25, 1918, which provided that all one-way fares of less than three cents per mile be incerased to three cents per mile and abolished all round trip fares with the single exception of those then in effect between San Francisco and San Rafael, San Francisco and several transbay points other than San Rafael and certain other transbay points, all in the Northwestern Pacific Railroad Company's territory, and left in effect without being increased the then published round trip fares between San Francisco and San Rafael.

Pursuant to the provisions of General Order No. 28, the Northwestern Pacific Railroad Company on June 10, 1918, increased the then effective rates in the case in question accordingly, omitting from its tariff all round trip fares except those heretofore referred to. The company, moreover, added to its tariff certain new rates applicable only to transportation without the usual baggage checking privilege. These changes resulted in the following fares:

	Without baggage checking privilege		With baggage checking privilege
	One way	Round trip	One way
Between San Francisco and—			
Sausalito	15	25	20
San Rafael	35	50	55
Between Sausalito and—			
Pine	----------	----------	10
San Rafael	----------	*50	35

*San Francisco rate.

The action of the federal authorities in permitting the continuance of the one-way fare of 35 cents and the round trip of 50 cents between San Francisco and San Rafael, but restricting it to apply without

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the baggage checking privilege, in lieu of 55 cents one-way fare with the baggage privilege and no round trip fares, which otherwise under the general rule would have applied on the three cents per mile basis was a fortunate adjustment for the Marin County people.

The Railroad Administration's decision to continue in effect the low round trip fare between San Francisco and San Rafael without making any increase therein resulted, moreover, in a correspondingly low round trip fare for Sausalito, Sausalito being an intermediate point naturally deriving the benefit of the San Francisco-San Rafael round trip fare. The round trip distance between Sausalito and San Rafael is twenty-one miles. If the regular three cents per mile basis had been used in computing the fare, such round trip fare between Sausalito and San Rafael would considerably exceed the San Francisco-San Rafael fare.

The fares next above set forth remained in effect until August 26, 1920, when the Railroad Commission of the State of California granted a 20 per cent increase on all intrastate passenger fares in line with *ex parte* Order No. 74 of the Interstate Commerce Commission, dated August 25, 1920, increasing interstate passenger fares 20 per cent. This resulted in the fares shown below:

	Without baggage checking privilege		With baggage checking privilege
	One way	Round trip	One way
Between San Francisco and—			
Sausalito	18	30	24
San Rafael	42	60	66
Between Sausalito and—			
Pine			12
San Rafael		60	42

It will be observed that prior to and under federal control the one-way fare between San Francisco and Sausalito was 15 cents, and that in compliance with the provisions of the Esch-Cummins Act, commonly known as the Transportation Act, and pursuant to the permission granted by the Railroad Commission of the State of California the 15-cent fare was increased 20 per cent, or to 18 cents. Previous to federal control the fare between Sausalito and Pine was 5 cents. General Order No. 28 established a minimum of 10 cents on interurban fares in the territory concerned in the complaint. Subsequently, with the 20 per cent increase, this 10-cent fare became 12 cents. Since the filing of the complaint the 12-cent fare has been reduced, however, to 10 cents between most of the interurban points where 12 cents was applicable.

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As contradistinguished from other fares which, by reason of General Order No. 28 and this Commission's 20 per cent increase granted were twice advanced in the manner provided therefor, the round trip passenger fares between San Francisco and Sausalito on the one hand and San Rafael on the other were inersaeed but once, the round trip fares in the case in question together with a limited few others in the transbay territory of the Northwestern Pacific Railroad Company as heretofore stated, the evidence developed, being the only round trip fares left in effect at the time General Order No. 28 abolished round trip fares throughout the United States.

Defendant introduced in evidence various exhibits showing comparative mileages and fares on railroads within California and those operating out of New York, Boston, Chicago and Philadelphia, all of which provide rates higher per mile than those in effect on the Northwestern Pacific Railroad Company between the points in question.

The complaint attacked the present one-way rate of $1.18 for the carrying of an automobile on defendant's ferry boats between San Francisco and Sausalito, but no evidence was presented to sustain the allegation of unreasonableness or otherwise.

Defendant's exhibit set forth below shows comparative mileages and charges for the transportation of automobiles between various points in California.

Auto Ferry Lines on San Francisco Bay, Together With Rates, Distances and Rates Per Mile.

Between	Miles	Auto charges	Rates in cents per mile
San Francisco and Sausalito	6.5	$1 18	.1815
San Francisco and Oakland	6.35	1 18	.1858
Richmond and San Quentin	4.	75	.1875
Rodeo and Vallejo	3.5	75	.2142
Martinez and Benicia	1.75	94	.5377
Crockett and Vallejo	.75	75	1.00

The foregoing schedule of comparative distances and charges for the transportation of automobiles on defendant's ferry boats does not show any discrimination or unreasonableness in the San Francisco-Sausalito rate as compared to rates assessed for other relatively similar distances.

Defendant's statement of its corporate income account for the years ending December 31, 1916, and 1920, submitted in evidence as part of complainant's Exhibit No. 1 and set forth next below, brings to light the fact that defendant is now operating at a distinct loss.

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Defendant's Statement of Corporate Income Account.

Item	1916	1920
Net income (operating and nonoperating income before deduction for fixed and other charges)	$1,585,003 42	$1,367,204 76
Total deductions (interest on funded debt, hire of equipment, joint facility and miscellaneous rents, etc.)	1,396,329 30	1,579,624 33
Net income, 1916	$188,674 12	
Net loss, 1920		$212,419 57
Sinking fund requirements	41,810 42	14,173 75
Balance to credit of profit and loss, 1916	$146,863 70	
Balance to debit of profit and loss, 1920 (10 months)		$226,593 32

As the foregoing statement covered only ten months of the year 1920, and shows a net loss of more than two hundred thousand dollars sustained by the company in that time, it would seem logical that in twelve months there would have been a loss to the company of a quarter of a million dollars.

Defendant's statement of revenue for the year ending December 31, 1920, which is likewise a part of the exhibit next above referred to, shows the passenger revenue, interurban, including revenue for passengers between San Francisco, Sausalito, Belvedere and Tiburon, plus the water transfer of vehicles and live stock, to amount to 15.39 per cent of the total gross operating revenue of defendant.

While it is possible that defendant's passenger fares in general may require a revision at a future date, the particular fares now drawn in question are not in and of themselves unfair.

After having given consideration to all the facts, exhibits and arguments, I am of the opinion that the complaint should be dismissed without prejudice.

ORDER.

Complaint having been made by the town of Sausalito against certain passenger fares and an automobile rate now in effect on the line of the Northwestern Pacific Railroad Company, a public hearing having been held, testimony taken and an investigation made, the Commission being fully apprised in the premises and of the opinion that the fares and rates in question are uniform and are not excessive, unreasonable or discriminatory against the citizens of said town of Sausalito, and basing its conclusion on the findings of fact contained in the opinion preceding this order;

It is hereby ordered, that the complaint be and the same is hereby dismissed without prejudice.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of August, 1921.

DECISION No. 9408.

IN THE MATTER OF THE APPLICATION OF McEWEN BROTHERS, A CORPORATION, FOR AUTHORITY TO INCREASE RATES FOR DOMESTIC WATER SERVICE.

Application No. 6788.

Decided August 24, 1921.

C. A. Odell, for Applicant.

D. J. Hall, for City of Richmond and South Richmond Improvement Company.

BENEDICT, *Commissioner*.

OPINION.

McEwen Brothers, a corporation, applicant herein, is a public utility water concern engaged in the business of furnishing water for domestic purposes to certain consumers in the city of Richmond, Contra Costa County, California.

Applicant alleges in effect that it is operating at a loss; that it is entitled to charge rates which will enable it to meet its maintenance and operation expenses, annual depreciation, and a reasonable interest on its investment. Wherefore applicant submits a suggested schedule of rates and asks that the same, or such other rates as the Commission deems fair and reasonable, be established.

A public hearing was held in this proceeding at Richmond, of which all of applicant's consumers were duly notified and given an opportunity to appear and be heard.

The rates at present in effect were established by this Commission in Decision No. 7540, dated May 3, 1920.

At the hearing applicant did not present an appraisal of its property.

Mr. D. H. Harroun, one of the Commission's engineers, presented a report covering the results of a field investigation, an appraisal of the property, and a study of the cost of maintenance and operation.

His appraisal shows an estimated original cost of the system of $15,914, and recommends $302 as a proper replacement annuity computed by the 6 per cent sinking fund method. This report also shows the sum of $3,169 as a fair and reasonable estimate of the cost of maintaining and operating this system. These estimates were not questioned at the hearing or subsequently, and appear fair.

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The following is a summary of the annual charges as indicated above:

Return on $15,914 at 8 per cent	$1,273 00
Replacement annuity	302 00
Maintenance and operation cost	3,169 00
Total estimated annual charges	$4,744 00

The total revenue from this system for the year 1920 was $3,243, and has averaged $3,032 per year for the four preceding years. It does not appear that there is reason to expect any notable increase in business in the near future. It would appear therefore that authority to increase the rates should be granted. However, the establishment of a rate that would return to applicant the estimated annual charges would be unreasonably high as compared with rates now charged for similar service by other utilities operating in adjacent territory, and would be a burden on the consumers. Therefore the rates herein established are deemed fair and reasonable rates. They are designed to produce the cost of maintenance and operation, a proper replacement annuity, and in addition a sum to apply as a return on the investment.

I submit the following form of order:

ORDER.

McEwen Brothers, a corporation, having applied to the Railroad Commission for authority to increase the rates for water served by it in the city of Richmond, Contra Costa County, California, a public hearing having been held, and the matter having been submitted.

It is hereby found as a fact that the rates and charges of McEwen Brothers, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates herein established are just and proper rates to be charged for the service rendered;

And basing its order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, by the Railroad Commission of the State of California, that McEwen Brothers, a corporation, be and it is hereby authorized to file with this Commission within twenty (20) days of the date of this order the following rates for water:

METERED RATES.

(Readiness-to-serve charge to apply to all metered service.)

Service charge.	
¾-inch and ¾-inch meters, per month	$0 50
1-inch meters, per month	1 50
Quantity charges.	
From 0 to 5,000 cubic feet, per month	$0 30 per 100 cubic feet
Over 5,000 cubic feet per month	25 per 100 cubic feet

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FLAT RATES.	Per month
Residences of not more than 5 rooms, with not over one bathtub and toilet	$1 50
For each additional room	10
For each additional bathtub or toilet	15
For each private barn, not more than two horses or cows	50
For each additional horse or cow	20
Private boarding houses, for each boarder in addition to the family	10
Irrigation of lawns, shrubbery, gardens etc., payable each month in the year, per 100 square feet	03
Stores and shops, according to the use of water	1 00 to 3 00
Municipal fire hydrants 2-inch and over, each	1 00

Sewer flushing, street sprinkling and all other municipal use at the metered rate.

It is hereby further ordered, that the above established rates shall apply to all service rendered on and after October 1, 1921.

It is hereby further ordered, that McEwen Brothers file with this Commission for its approval, within thirty (30) days from the date of this order, rules and regulations to govern its relations with its consumers.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of August, 1921.

DECISION NO. 9411.

PACIFIC RICE GROWERS ASSOCIATION, A CORPORATION,
vs.
ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL.

Case No. 1588.

Decided August 24, 1921.

RAILROAD RATES—RICE AND GRAIN RATES—REASONABLENESS OF.—Rice is not included by any of the carriers in their grain group, nor is rice classified the same as grain in the consolidated classification. Complainants adduced no evidence to show that rates, *per se*, on paddy rice are unreasonable, or that grain rates are or are not reasonable.

RAILROAD RATES—ECONOMIC CONDITIONS.—Rates that are reasonable, *per se*, can not be reduced or changed solely to meet temporary economic requirements or fluctuating market conditions.

J. M. Inman, and *Downey and Downey*, by *Stephen W. Downey*, for Pacific Rice Growers Association.

Elmer Westlake and *M. A. Cummings*, for Southern Pacific Company.

Charles R. Detrick, and *Heller, Ehrman, White and McAuliffe*, for Sacramento Northern Railroad.

James S. Moore, Jr., for Western Pacific Railroad Company.

F. B. Cruice, for Atchison, Topeka and Santa Fe Railway Company.

Sanborn and Roehl, for Sacramento Transportation Company; Farmers Transportation Company; California Transportation Company; California Navigation and Improvement Company, and Island Transportation Company.

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L. H. Rodebaugh, for San Francisco-Sacramento Railroad Company.
J. J. Geary, for Northwestern Pacific Railroad Company.

BENEDICT, *Commissioner*.

OPINION.

The complainant in this proceeding is a corporation, incorporated under the laws of the State of California, with its principal place of business at Sacramento, California, and is an association composed of persons engaged in the growing and marketing of rice. In its complaint, filed April 22, 1921, it alleges that the rates charged by the defendants for the transportation of paddy rice within the State of California are unjust, unreasonable, discriminatory and unduly prejudicial to the rice growers and producers in the State of California to the extent that such rates exceed rates applying to whole grains; namely, wheat, rye, oats, barley and corn.

Complainant prays that defendants be required to accord to paddy rice and rice products the same rates as apply to whole grains, including milling, cleaning, storing, bulking or otherwise treating in transit from producing points to consuming points within the State of California and that rice be carried in the grain tariff and be subject to all the transportation facilities and rights now enjoyed by grains.

Public hearing has been held and the matter is now ready for opinion and decision. At the hearing the complainant amended its complaint, limiting same "strictly to asking that same rates be applied on rice as are applied on grain." (Transcript, page 4.) Therefore, the Commission will consider the case as amended.

The complainant in this proceeding previously filed a complaint in Case No. 1432, which was decided by this Commission's Decision No. 8517, January 6, 1921. Complainant in Case No. 1432 alleged that the rates in effect on rice and rice products were, *per se*, unreasonable, discriminatory and unduly prejudicial, and requested the Commission to establish a reasonable mileage scale. The Commission's order in that proceeding established paddy rice rates based on 125 per cent of the grain rates, and these are the rates under attack in this proceeding.

Counsel for complainant requested that evidence, including exhibits and testimony taken in Cases Nos. 1432 and 1437 (which two cases were consolidated for hearing and decision), be considered as evidence before the Commission in this hearing, to be supplemented with such evidence as either side desired to offer. This was objected to by defendant's counsel, on the ground that since the evidence was taken in Cases Nos. 1432 and 1437 there had been two changes in rates and that entirely different conditions now prevail.

The Commission ruled that the records in Cases Nos. 1432 and 1437 are official records and that the evidence presented in those cases would

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be considered in this matter for what it is worth and that the evidence in these previous cases would be consolidated with the evidence submitted in the present hearing.

The rates, charges, rules, regulations and practices of the carriers, defendants in this proceeding, were exhaustively gone into in previous cases. The character of paddy rice as a commodity, its value, bulk, weight, cost of production, etc., were discussed at considerable length in Case No. 831, Decision No. 2783, decided September 28, 1915, and in Cases Nos. 1432 and 1437, Decision No. 8517, January 6, 1921. In the two last named cases application for rehearing was denied by Decision No. 8697, March 4, 1921. It will, therefore, not be necessary to go into great detail on these matters in this instance.

The testimony showed that of the 1920 paddy rice crop 80 per cent is controlled by members of the complainant association and that the amount of acreage planted to rice in the state in 1920 was 170,200 acres and that in 1921 there has been planted 168,200 acres, but slightly less acreage in 1921 than in 1920. From the same source the evidence shows there are large quantities of the 1920 paddy rice crop unsold, stored in country warehouses and under toll milling. It was evidenced that in the fall of 1920 there were storms and rainfall which did serious injury to the rice crop in general. The record shows there are stored in country warehouses 1,500,000 bags and in mills under toll milling 350,000 bags paddy rice, of which but 50,000 to 75,000 bags is of first quality rice. The price of paddy rice in August, 1920, was $6 and at the time of this hearing, $1.80 per one hundred pounds.

It was further shown that the condition of the rice industry has changed from one of reasonable profit to one of actual and heavy loss this last season. The complainant's witness attributed this loss mainly to market conditions, falling market, lack of demand, and the storm damage as a second consideration.

Another witness testified that his principal difficulty was high labor, low market and bad season. It was further shown the labor cost for common labor last year averaged about $4 and that this year it is $2 and board, while skilled labor last year was $6 per day and this year $3.50 and $4; that bags in 1919 cost as high as 25¼ cents, in 1920 19 cents and in 1921 between 6 and 7 cents, indicating that the condition, especially in so far as labor and sacks are concerned, has now been greatly relieved.

In reply to a query whether or not, if the freight rate on rice were the same as that on grain, would producers be able to market a large portion of the crop—witness stated it would not move a large portion and qualified such reply by explaining it could not meet competition of the southern rice in the Los Angeles market. The rate to Los

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Angeles from California producing points is 38 cents, while the rate from the Louisiana and Texas fields is $1.08, but testimony showed the southern rice is a different kind of rice—a long grain rice, preferred by consumers, which proves conclusively that the freight rate is not a prominent factor in meeting such competition.

There is nothing in the record to indicate that reduced rates would substantially increase the traffic. The carriers contend that the grain rates, on account of previous rate wars, water competition and other elements, have been depressed generally in the locality of the Sacramento Valley and that this condition has been reflected at other points and that therefore the grain rates are not reasonable in this state. Carriers further contend that the rates on rice should not be the same as on grain, taking into consideration the volume of the movement, the ability of the traffic to pay higher rates, and that the grain rates are already low.

We quote from our Decision No. 8517, January 6, 1921:

The complainants in Case No. 1437, who are rice millers, alleged that the rates on paddy rice are unjust, unreasonable and discriminatory in so far as they exceed the rates contemporaneously in effect on grain.

Let us analyze the rates on grain applicable within the State of California and which are used as the basis for comparison in this case.

The testimony showed that the original grain rates in California were established more than forty years ago and many of the present rates (without considering the general increase in rates brought about by Director General of Railroads General Order No. 28 and the increase authorized by this Commission's Decision No. 7983) were still in effect in defendants' tariffs when the increase authorized in General Order No. 28 and our Decision No. 7983 were applied.

Prior to construction of the railroads, the Sacramento River and its tributaries were covered with innumerable water craft, conducting the only systematic transportation service for freight then in existence. The historical facts brought out in the testimony are, briefly, as follows:

The first railroad constructed in the Sacramento Valley was the Central Pacific, which operated a short distance out of Roseville in June, 1869, reached Chico in July, 1870, and Red Bluff in December, 1871. On the west side of the Sacramento River a rail line was constructed north from Woodland, reaching Williams in July, 1876. A line north of Orland commenced operations in July, 1882; the same year this line was completed to Tehama, where it connected with the rail line on the east side of the Sacramento River. Prior to the establishment of these rail lines the population of the Sacramento Valley depended entirely on river transportation. When the railroad lines entered this territory it was the occasion for the commencement of a rate war between rail carriers on the one hand and the water carriers on the other, unprecedented in the history of western transportation. The effect of these rate wars is still reflected in the present freight rates. Water carriers, in order to gain an advantage, subsidized lines of teams operating out of Chico and Red Bluff which hauled freight between river points and mountain towns as far east as Susanville and as far north as Lake View and Silver Lake, Oregon.

The principal commodity grown in the territory thus served was grain.

The rail carriers purchased steamers and entered into competition with the established water carriers and the established water carriers undertook to build railroads. Both the rail and water carriers established warehouses. During these pioneer activities, the testimony shows, "everybody got a rebate," hence there was no further use for high rates in their tariffs, so the rebates were discontinued and the freight rates reduced accordingly. In the early 80's the rate on grain from Chico to Port Costa and San Francisco was $6 a ton. This was gradually decreased during the rate wars until it reached $2.50 a ton. The rate from Colusa to Port Costa and San Francisco, also Sacramento, by one of the water carriers

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decreased from $3.50 a ton to the low level of $1.50 a ton. It was also shown that in 1893 or 1894 competition became so pronounced and the rail carriers having made arrangements to have the grain hauled to the rail lines, it was necessary for the water carriers to adopt the plan of purchasing the grain outright in order to secure any business.

In the early 90's grain sold from $1 to $1.10 per hundred pounds; in 1896 and 1897 the price of wheat was as low as 60 cents per 100 pounds; so low, in fact, that the farmers along the river considered it not worth shipping. Thus it was the contention of the defendants that the grain rates then in effect and which were the basis for the present grain rates, were abnormally low and on account of the present rail and water competition it has been impossible to adjust these grain rates upward to a reasonable basis.

The subject of the reasonableness of the grain rates is not a question now before the Commission, therefore their reasonableness is not passed upon in this proceeding.

In considering rate structures and rate relationships existing today the Commission can neither condemn nor justify such rates on the basis of their origin or upon the traffic conditions prevailing in the past.

The Commission frequently inquires into the origin and history of rate schedules in order to clearly understand the existence of such rates and to interpret their significance, but in dealing with present day rates they must be considered entirely on the basis of current prevailing conditions.

The testimony shows that the growth of the rice industry in California has been constant since its beginning. It was shown (Trans. 564) that in the Sacramento Valley in 1912 there were planted to rice 1400 acres; in 1913, 6000 acres; in 1914, 15,000 acres; in 1915, 29,000 acres; 1916, 72,000 acres; 1918, 120,000 acres; 1919, 140,000 acres, and in 1920, 170,000 acres. The same witness testified that there are now about 2,000,000 acres of grain planted in California, of which about 1,000,000 acres are in the Sacramento Valley (Trans. 543), and it was also shown that the yield per acre of wheat in California is about 10 sacks, or 1400 pounds, and the yield of barley per acre is 20 sacks, or about 2000 pounds, as compared with 55 sacks of rice per acre, weighing about 3500 pounds (Trans. 561). It was shown that the value of wheat rose from 60 cents per 100 pounds in 1897 to the neighborhood of $4 in 1919 (Trans. 294), while rice ranged in price in 1915 and 1916 from $1.50 to $1.75 per hundred pounds and in 1919 as high as $8 per hundred (Trans. 294). It is thus established that rice is comparatively of higher value than grain and that the acreage in the Sacramento Valley of rice to grain is about 1 to 6. However, we also have the condition that the rice industry is constantly increasing in magnitude, but at the same time it is not expected to ever reach the volume of grain. Rice may be produced on land that was theretofore of no practical value for any other purpose.

Rice rates in the first instance were established by the carriers at the request of the rice growers and the rates then established were undoubtedly considered reasonable and acceptable to the shippers. In the beginning, the testimony offered by the defendant showed rice rates were based upon 150 per cent of the grain rates, but subsequent horizontal percentage increases have resulted in increasing the differential and widening the relationship between grain rates and rice rates until the rice rates are now higher than they probably would have been had adjustments been made by any other method than a horizontal increase.

Evidence in this case shows the present day price of paddy rice around $1.80 per hundred weight, pre-rain rice, while the average price of barley, the principal grain grown in the state, is an average of $1 per hundred weight, and barley is practically the only grain grown in the Sacramento Valley.

Rice is not included by any of the carriers in their grain group—nor is rice classified the same as grain in the consolidated classification.

In Decision No. 2783 on Case No. 831, September 28, 1915, the Commission said:

"It may be true that strict dictionary definition classifies paddy rice as a grain, but it is evident that both the railroads and the shippers considered paddy rice

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as a different commodity, justifying a different rate than grain, such as wheat, barley, oats, etc., and so the commodity rate was established by agreement and paid without protest, and there can be no question from the evidence in this case that both the railroads and the shippers proceeded upon the theory that paddy rice should be given a rate higher than that provided for grain.

The Interstate Commerce Commission in its decision in Docket No. 9515, to be found 47 I. C. C. 572, said:

Unlike corn and wheat, the production of rice is confined to limited territories, and the consuming markets for the product of each locality must cover a more extensive portion of the country. This, defendants urge, is an inherent condition that differentiates rice from other cereals and cereal products.

Testimony presented pertaining to the financial condition of the rice industry indicates that the rice industry is in a serious condition and, generally speaking, the bankers seem to be carrying the rice men; however, considering all the circumstances, these conditions are natural to a period of liquidation and deflation. Present relatively low prices may be due, and probably are due, to the damaged condition of the crop, as well as possible over-supply on the market, the heavy production in all rice growing territories, resultant from previous high prices, etc., and now the decreased demand is making itself felt.

The defendant witness for the Sacramento Navigation Company testified his company handled in 1919 approximately 40,000 tons of rice out of a total produced in the Sacramento Valley of 200,000 tons, or about 20 per cent of the total. The same witness stated his company operated in 1920 at a loss of about $35,000.

The annual report to the Commission filed by the Sacramento Navigation Company shows for 1920 gross revenue $122,129.06; operating expenses $145,182.34, a deficit of $23,053.28. This same witness testified that if rice rates were reduced to the basis of grain rates a loss in revenue would result to his line of from $20,000 minimum to $40,000 maximum per annum.

The president of the Sacramento Northern Railroad testified his line carried a considerable quantity of rice; also that his company in the past six months had not earned its interest or its operating expenses. The annual report of this carrier for 1920 filed with the Commission showed that it operated at a deficit of $22,166.34 for that period.

In the beginning it was shown by the defendants in previous cases that rice rates are the result of an agreement between rice growers and the carriers and that rice rates were established based, generally, on 150 per cent of the grain rates, since which time there have been some adjustments, including two horizontal increases in all rates, and any percentage increase in rates is bound to augment differentials. This condition, however, was alleviated to a considerable extent by the

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substantial reductions in rice rates brought about by the Commission's decision in cases 1432 and 1437, in which cases we established rates for paddy rice 125 per cent of the grain rates.

Complainant brought no evidence before the Commission to show that the rates, *per se*, charged on paddy rice are unreasonable, neither does it show that the grain rates are or are not reasonable *per se*.

No exhibits were filed and this case was submitted entirely on oral testimony. The urge of the complainants was directed more toward the conditions of the rice industry and its need for relief than to an attack on freight rates.

The Interstate Commerce Commission, in its decision in Docket 2834, *Ponchatoula Farmers Association* vs. *Illinois Central Railroad Company*, 19 I.C.C. 515, said:

> Several witnesses, members of complainant organization, engaged in producing vegetables at Ponchatoula, testified as to the poor financial returns they were deriving from their business and alleged that their condition was due to absorption of profits by freight rates. These shippers apparently entirely misconceive the powers of the Commission in fixing a reasonable rate. The Commission can not lawfully base rates upon the profits derived in a particular business. It might be that in a favorable season the farmers of Ponchatoula would receive large and generous returns from their labors, but this fact would not justify the carriers in charging for transporting the vegetables to market more than a reaonable rate for the service performed. In another season the market prices might be such that there would be little or no profit in the business, yet such fact would not justify the Commission in requiring the carriers to transport the produce at a less rate than would be reasonable for the service performed. The law does not require the carriers to regulate the price of transportation upon the basis of profits to the shipper, and in authorizing the Commission to fix reasonable rates the law presumes that the measure of reasonableness will be based upon all the many elements of the particular traffic involved.
>
> The conditions complained of are directly due to the competition in the early vegetable business, which extends from Texas to the Atlantic Coast. Large areas that were formerly not cultivated or were given over to the culture of single staples such as cane, cotton, or corn, are now devoted to vegetable culture. While it is within the power of the Commission to guard the public against unreasonable charges, or unduly discriminatory practices on the part of a particular carrier, the vicissitudes of competition among shippers can not be compensated for in the freight rate.

Later on, in the case of *Railroad Commissioners of the State of Florida* vs. *Southern Express Company* (28 I. C. C. p. 635, Docket 3184) the Interstate Commerce Commission repeated the first paragraph of the above quotation and commented upon it in the following language:

> The carriers are entitled to a reasonable compensation for the services they render; yet this compensation might require the establishment of rates upon which shippers could not do business at a profit, and in such a case the Commission could not lawfully prescribe rates unremunerative to the carrier. A similar contention to the one here made has been advanced in other cases where producers seek lower rates. The contention is so unsound and yet so persistently urged that we deem it advisable to repeat what we have said in a similar case.

It is the function of the Commission to establish just and reasonable rates, and no evidence was produced in this proceeding to prove that

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the rates established by the Commission in the previous cases were more than just and reasonable, and certainly the financial conditions of some of these carriers, defendant, is such that the Commission must give grave consideration before any changes in rates are ordered. Rates that are reasonable *per se* can not be reduced or changed solely to meet temporary economic requirements or fluctuating market conditions.

It is apparent that the complaint in this proceeding has not proven that the rates assailed on paddy rice are unreasonable, and, therefore, this complaint should be dismissed.

The following form of order is recommended:

ORDER.

Complaint having been made by Pacific Rice Growers Association against freight rates on paddy rice applying within the State of California on the lines of the Atchison, Topeka and Santa Fe Railway Company et al., a public hearing having been held, testimony taken and an investigation made, the Commission being fully apprised in the premises, and basing its conclusion on the findings of fact in the opinion preceding this order;

It is hereby ordered, that the complaint in this proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of August, 1921.

DECISION No. 9412.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION ESTABLISHING RATES TO BE CHARGED BY IT FOR GAS AND ELECTRICITY.

Application No. 6078.
(First Supplemented Application.)
Decided August 24, 1921.

GAS UTILITY—RATE REDUCTION—OIL RATIO ESTABLISHED.—Upon a showing of a decline in the price of oil, application of utility to reduce its rates for gas granted, and a ratio is established for the company between the price of oil and gas, whereby future adjustments may be made without a hearing

BY THE COMMISSION.

OPINION ON FIRST SUPPLEMENTAL APPLICATION.

San Diego Consolidated Gas and Electric Company requests herein that the Commission issue a supplemental order reducing applicant's

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basic rates for gas service as specified in its Schedule No. 1 by an amount of 10 cents per thousand cubic feet with the exception of the minimum charge; that a method be determined whereby applicant's gas rates as set forth in Schedule No. 1 may be increased or decreased automatically with increase or decrease in the price of oil; that, in addition, a further reduction of 2 cents per thousand cubic feet be made applicable to Schedule No. 1 owing to the price of oil being 10 cents per barrel below that on which the basic reduction is estimated. Applicant further requests that the reduction asked for be made effective for meter readings taken on and after October 1, 1921; that the rules, regulations and rates, except those as to which the changes are specified in the request, remain unchanged, and requests such other relief that may to the Commission seem meet.

This Commission, in its Decision No. 8638 in Application No. 6078, dated February 21, 1921, authorized applicant to increase its gas and electric rates as specified therein. The gas rates therein fixed were based upon a price of oil of $2.30 per barrel delivered to the company's plant. Since the effective date of the decision applicant's operating expenses have been subject to increase due to the increase in the tax rate applicable to its service and its expenses have been subject to reduction due to the price of oil being reduced to $1.90 per barrel effective May 13, 1921, and a further reduction to $1.65 per barrel at San Diego effective August 3, 1921. The net result of the increase in taxes and the reduction in the price of oil from the price of $2.30 per barrel to $1.65 per barrel is equivalent to a net reduction in the cost of gas service of approximately 12 cents per thousand cubic feet of gas sold.

Applicant has herein proposed a new rate for general gas service in its San Diego division which is 10 cents per thousand cubic feet below the rate fixed in Decision No. 8638, and it proposes further that this be considered as a basic rate computed on a price of oil of $1.75 per barrel, and that the Commission include in the schedule a provision that the rate will be subject to an increase or decrease of 2.4 cents per thousand cubic feet for an increase or decrease in the price of oil of not less than 10 cents per barrel above or below $1.75 per barrel, such change to be to the nearest one cent. The price of oil effective for deliveries on and after August 3 is $1.65 per barrel, making the total reduction under the proposed schedule 12 cents per thousand cubic feet.

The Commission has had a careful analysis made of the resultant effect of the increase in taxes and reduction in the price of oil below that estimated and finds that the reductions proposed by applicant are reasonable and that the resultant rates for gas service as set forth in

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Schedule No. 1 are just and reasonable rates. In its Decision No. 8638 the Commission also fixed rates for gas service rendered to the tent city of Coronado specified as Schedule No. 2, and a special municipal arc service at La Jolla specified as Schedule No. 4. These two schedules cover special and limited service, the nature of which has limited the rate in the past to below the full cost of service, and we do not find that they should be reduced at this time.

In its petition applicant does not suggest a reduction in the rates for gas service rendered in Escondido and vicinity at this time. Applicant operates a small gas plant in Escondido, rendering service to approximately 260 consumers. In the rates heretofore fixed the Commission did not contemplate a full return upon the service rendered in this district owing to the value of the service. A study of the rates now in effect in Escondido shows that with the reduced price of oil the rates therein specified will not in the Commission's opinion be in excess of reasonable rates. It is further to be noted that the rates in Escondido, when compared with the rates for similar sized communities throughout the state, are not in excess of the rates found reasonable under the price of oil as it now exists. It is the Commission's opinion, however, should further reduction in the price of oil occur, that the rates charged in the city of Escondido should be reduced in proportion to the reduction in cost below the cost based upon an oil price at San Diego of $1.65 per barrel. It is to be contemplated, however, that should at a later time an increase in price of oil in excess of the present price of $1.65 f.o.b. San Diego occur, the rates as now existing would not be increased except upon special approval of this Commission.

An analysis of the operations of San Diego Consolidated Gas and Electric Company shows that the oil cost of gas delivered to consumers in the San Diego division varies at the rate of approximately 2.4 cents per thousand cubic feet for each 10-cent variation in the price of oil, and that the oil cost of gas served in Escondido and vicinity varies at the rate of 3 cents per thousand cubic feet for each 10-cent change in the price of oil.

From an analysis of the evidence in Application No. 6078 and the facts before the Commission in this supplemental application we are of the opinion that the application of San Diego Consolidated Gas and Electric Company for the reduction of its rates as set forth in the first supplemental application should be granted; that the rates should hereafter be varied as hereinafter ordered, and that the rates set forth in the order herein and specified as schedules Nos. 1 and 3, respectively, are just and reasonable rates to be charged for the service rendered on the basis of the price of oil as specified. We are further of the opinion that a hearing in this proceeding is not necessary.

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ORDER.

San Diego Consolidated Gas and Electric Company having applied for authority to reduce its general rates for gas service in the city of San Diego and vicinity and for a modification of its rates whereby the same may be changed with the change in price of oil without the necessity of further hearings, and the Commission finding as a fact that the requests of San Diego Consolidated Gas and Electric Company when modified as herein set forth are just and reasonable, and that the rates as set forth hereafter are just and reasonable rates for gas service under the conditions as specified in the schedules, respectively;

It is hereby ordered, that San Diego Consolidated Gas and Electric Company be and the same is hereby authorized to make effective the following basic schedules of rates, the same to become effective based upon all meter readings taken on and after the first day of October, 1921:

SCHEDULE NO. 1.

General gas service.

Gas of an average heating value of 540 British thermal units per cubic foot will be supplied under this schedule for commercial service of gas for lighting, heating and cooking.

Territory.

Applicable to San Diego district, including San Diego, East San Diego, National City, Chula Vista, La Mesa and Coronado.

Rate.		Gross	Net
First	500 cubic feet or less per month	$0 80	$0 70
Next	4,500 cubic feet per month per 1,000 cubic feet	1 45	1 35
Next	10,000 cubic feet per month per 1,000 cubic feet	1 35	1 25
Next	15,000 cubic feet per month per 1,000 cubic feet	1 10	1 10
Next	20,000 cubic feet per month per 1,000 cubic feet	1 00	1 00
Next	25,000 cubic feet per month per 1,000 cubic feet	90	90
All over	75,000 cubic feet per month per 1,000 cubic feet	80	80

The above rates are subject to increase or decrease on the basis of 2.4 cents per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the price of $1.75 per barrel at San Diego upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

Minimum charge.

The minimum charge is $0.85 per meter per month or portion thereof, subject to 10 cents discount for prompt payment.

Prompt payment discount.

All bills are rendered at the gross rate shown above. A discount reducing the bill to the net rate as shown is made for prompt payment in case bills are paid on or before the date due as shown on the bill rendered.

Special conditions.

In case of prepayment meters the rate charged shall be $1.50 per thousand cubic feet for all gas consumed, subject to a minimum charge of 75 cents per meter per month.

SCHEDULE NO. 3.

General gas service.

Gas of an average heating value of 570 British thermal units per cubic foot will be supplied under this schedule for domestic and commercial service for lighting, heating and cooking.

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Territory.
Applicable in the city of Escondido.

Rate.		Gross	Net
First	500 cubic feet or less per meter per month	$1 10	$1 00
Next	4,500 cubic feet per meter per month, per M cubic feet	1 95	1 85
Next	5,000 cubic feet per meter per month per M cubic feet	1 75	1 65
Next	10,000 cubic feet per meter per month per M cubic feet	1 40	1 40
All over	20,000 cubic feet per meter per month per M cubic feet	1 25	1 25

The above rates are subject to decrease on the basis of 3 cents per 1000 cubic feet for each 10-cent decrease in the cost of oil below the price of $1.65 per barrel f.o.b. San Diego upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

Prompt payment discount.
All bills are rendered at the gross rate shown above. A discount reducing the bill to the net rate as shown is made for prompt payment in case bills are paid on or before the date due as shown on the bill rendered.

It is hereby further ordered, that—

1. The above Schedule No. 1 is hereby reduced 2 cents per 1000 cubic feet effective for all meter readings taken on and after October 1, 1921.

2. In case of a reduction in the price paid for oil, the San Diego Consolidated Gas and Electric Company shall file within 10 days thereafter an affidavit setting forth the new price paid for oil and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth.

3. Should at any time an increase in price paid for oil occur, applicant may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increase in rates as determined under the schdules herein set forth.

4. San Diego Consolidated Gas and Electric Company shall file the above schedules to comply with the order herein on or before September 20, 1921.

Dated at San Francisco, California, this twenty-fourth day of August, 1921.

DECISION No. 9413.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN CALIFORNIA GAS COMPANY, FOR AN ORDER PRELIMINARY TO THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY RELATIVE TO THE EXERCISE OF RIGHTS OF FRANCHISE NOT YET SECURED IN REDLANDS, CALIFORNIA.

Application No. 6977.

Decided August 25, 1921.

O'Melveny, Millikin and Tuller, by *Paul Fussell,* for Applicants.

LOVELAND, *Commissioner.*

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OPINION.

Southern California Gas Company applies herein for an order preliminary to the issuance of a certificate, declaring that public convenience and necessity require the exercise by it of the rights and privileges of a franchise proposed to be secured by it from the city of Redlands to lay, maintain and operate a system of pipes in the public streets, alleys and highways of the city of Redlands for the purpose of supplying gas for lighting, heating and all other purposes for which gas may be used.

The city of Redlands has previously been supplied with gas by the Citrus Belt Gas Company. A contract has been entered into for the purchase by Southern California Gas Company of the Citrus Belt properties; this purchase agreement has already been approved by the Railroad Commission. There is at this time question as to the legality of the franchise previously granted to Citrus Belt Gas Company, and in order to prevent further question a new franchise has been sought by Southern California Gas Company for serving the territory previously supplied by the Citrus Belt Company.

A hearing was held in Los Angeles on July 22, 1921, at which time evidence was taken and the matter thereupon submitted. Since the submission of this proceeding the aforementioned franchise has been granted by the city of Redlands and Southern California Gas Company has filed a stipulation, duly executed by authority of its board of directors, in which it agrees that it, its successors or assigns, will never claim before the Railroad Commission or any court or other public body a value for the right, privilege and franchise granted under the ordinance in question in excess of the actual cost to applicant of acquiring said franchise, stated in the stipulation to be the sum of $525.

The application herein asks only for an order preliminary to the issuance of a certificate of public convenience and necessity. Inasmuch as the franchise has now been duly granted and the required stipulation as to its claim for the value thereof has been filed by Southern California Gas Company, I shall, therefore, make the final order herein.

I find as a fact that public convenience and necessity require the exercise by Southern California Gas Company of the rights and privileges of the franchise granted to it by ordinance No. 634, of the city of Redlands, and submit the following form of order:

ORDER.

Southern California Gas Company having applied to the Railroad Commission for an order, preliminary to the issuance of a certificate of public convenience and necessity, relative to the exercise of rights under a franchise from the city of Redlands, a public hearing having been

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held, a copy of said franchise having been filed, Southern California Gas Company having stipulated in form satisfactory to this Commission as to the claim for value of said franchise and the matter having been submitted:

The Railroad Commission of the State of California does hereby certify and declare that public convenience and necessity require the exercise by Southern California Gas Company of the rights and privileges provided under the terms of the franchise granted it by ordinance No. 634, of the city of Redlands, on August 10, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fifth day of August, 1921.

DECISION NO. 9414.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER PRELIMINARY TO THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY RELATIVE TO THE EXERCISE OF RIGHTS OF FRANCHISE NOT YET SECURED IN SAN BERNARDINO, CALIFORNIA.

Application No. 6976.

Decided August 25, 1921.

O'Melveny, Millikin and Tuller, by *Paul Fussell*, for Applicants.

LOVELAND, *Commissioner*.

OPINION.

Southern California Gas Company applies herein for an order preliminary to the issuance of a certificate, declaring that public convenience and necessity require the exercise by it of the rights and privileges of a franchise proposed to be secured by it from the city of San Bernardino to lay, maintain and operate a system of pipes in the public streets, alleys and highways of the city of San Bernardino for the purpose of supplying gas for lighting, heating and all other purposes for which gas may be used.

Applicant shows that it has been engaged in the business of distributing gas for domestic, commercial and industrial purposes in the city of San Bernardino for a number of years in competition with Citrus Belt Gas Company. At the present time negotiations are being completed for the purchase of the Citrus Belt properties by Southern California Gas Company, this purchase having already been approved by the Railroad Commission. It is the request that an order granted

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at this time should cover applicant's operations of the combined systems. Previous operations have been under constitutional franchise rights.

A hearing was held in Los Angeles on July 22, 1921, at which time evidence was taken and the matter thereupon submitted. Since the submission of this proceeding the aforementioned franchise has been granted by the city of San Bernardino and Southern California Gas Company has filed a stipulation, duly executed by authority of its board of directors, in which it agrees that it, its successors or assigns, will never claim before the Railroad Commission or any court or other public body a value for the right, privilege and franchise granted under the ordinance in question in excess of the actual cost to applicant of acquiring said franchise, stated in the stipulation to be the sum of $442.

The application herein asks only for an order preliminary to the issuance of a certificate of public convenience and necessity. Inasmuch as the franchise has now been duly granted and the required stipulation as to its claim for the value thereof has been filed by Southern California Gas Company, I shall, therefore, make the final order herein.

I find as a fact that public convenience and necessity require the exercise by Southern California Gas Company of the rights and privileges of the franchise granted to it by ordinance No. 820 of the city of San Bernardino, and submit the following form of order:

ORDER.

Southern California Gas Company having applied to the Railroad Commission for an order, preliminary to the issuance of a certificate of public convenience and necessity, relative to the exercise of rights under a franchise from the city of San Bernardino, a public hearing having been held, a copy of said franchise having been filed, Southern California Gas Company having stipulated in form satisfactory to this Commission as to the claim for value of said franchise and the matter having been submitted:

The Railroad Commission of the State of California does hereby certify and declare that public convenience and necessity require the exercise by Southern California Gas Company of the rights and privileges provided under the terms of the franchise granted it by ordinance No. 820 of the city of San Bernardino on August 8, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fifth day of August, 1921.

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DECISION NO. 9420.

IN THE MATTER OF THE OPERATION AND PRACTICES OF HUGH A. BOYLE, HUGH ALLEN BOYLE, AND JAMES J. RYAN, COPARTNERS, OPERATING AN EXPRESS AND FREIGHT SERVICE BETWEEN SEBASTOPOL, SANTA ROSA, COTATI, PETALUMA AND OAKLAND AND RICHMOND, BERKELEY AND OAKLAND IN CONTRA COSTA AND ALAMEDA COUNTIES.

Case No. 1583.

Decided August 25, 1921.

AUTO STAGES—SERVICE—DUTIES OF HOLDER OF CERTIFICATE.—The granting of a certificate confers a privilege which can only be continued by the grantee fully meeting the obligations and responsibilities imposed by statutory law and the rules and regulations of the Commission. These include furnishing a regular and dependable service, in accordance with approved rates and time schedules.

In this instance, certificate was revoked for violation of terms of grant.

Hugh A. Boyle and *Hugh Allen Boyle*, Defendants.

W. F. Geary and *E. H. Maggard*, for Petaluma and Santa Rosa Railroad Company, Intervenor.

S. S. Knight, for Poultry Keepers' Association of Petaluma.

BY THE COMMISSION.

OPINION.

This is a proceeding instituted by the Commission on its own motion by reason of an order to show cause issued on April 16, 1921, and an amended order instituting investigation and order to show cause issued on July 30, 1921, directing Hugh A. Boyle, Hugh Allen Boyle and James J. Ryan, copartners, operating an express and freight service between Sebastopol and Oakland and intermediate points to appear and show cause why this Commission should not revoke, cancel or annul the certificate of public convenience and necessity for the operation of an automobile freight line between Sebastopol and Oakland and intermediate points or take such other action regarding alleged violation of the Commission's order as contained in Decision No. 8072 on Application No. 5778 as to the Commission appeared just and proper.

Public hearings were conducted by Examiner Handford at Petaluma on May 3 and August 16, 1921, the matter was duly submitted and is now ready for decision.

Hugh A. Boyle, Hugh Allen Boyle and James J. Ryan, copartners, were granted a certificate of public convenience and necessity to operate automobile freight and express service as a common carrier between Sebastopol and Oakland, serving as intermediates the communities at Santa Rosa, Cotati, Petaluma and Novato and at Berkeley and Richmond, the authority being contained in Decision No. 8072 on Application No. 5778, as decided September 10, 1920. On September 18, 1920, Hugh A. Boyle and James J. Ryan filed with this Commission an acceptance of the certificate specifying that within thirty days from

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said September 18, 1920, the operation of said automobile truck line would commence and that tariffs and rules as required by General Order No. 51 of this Commission would be filed with the Railroad Commission. On October 20, 1920, Local Freight Tariff No. 1 (C. R. C. No. 1) was filed with the Railroad Commission naming rates for the transportation of merchandise between Sebastopol, Santa Rosa, Petaluma, San Rafael, Richmond, Oakland and intermediate points, said tariff being issued on October 19, 1920, and to become effective October 20, 1920. Time Schedule No. 1, to become effective October 20, 1920, was also filed with the Railroad Commission.

During the month of February, 1921, the Commission was advised that the service authorized by Decision No. 8072 on Application No. 5778 was not available for the public in that the schedule was not being observed by the copartnership to whom the certificate had been granted and as such informal complaints became numerous, the Commission instituted a proceeding on its own motion and set the matter for hearing at Petaluma on May 3, 1921. At this hearing defendants, Hugh A. Boyle and Hugh Allen Boyle, requested a continuance on the ground that they had not been served with the order to show cause and were therefore not represented by counsel and were unable to properly answer. The record of the Commission indicated that notices had been regularly sent by registered mail through the post office, properly addressed to the last known address of these defendants, but defendants contended that such notices had not been delivered. The matter was therefore taken from the calendar and it later developed that the registered letters were not delivered to the defendants, Hugh A. Boyle and Hugh Allen Boyle, but were returned to the Commission by the post office authorities after efforts had been made, as indicated by post office marks, to effect delivery in Petaluma, Mill Valley, Berkeley and Oakland. An amended order instituting investigation and order to show cause was issued by the Commission on July 30, 1921, served on all defendants by registered mail, directing them to appear at Petaluma on August 16, 1921, to which order defendants, Hugh A. Boyle and Hugh Allen Boyle, responded by appearance.

Mr. R. H. Bishop, assistant service inspector for the Commission, testified that by direction of the Commission he had made two investigations of the operation in connection with complaints made to the Commission, one inspection having been made in February and one in July, 1921. The inspection made in February (on February 15th) resulted in information that Jas. J. Ryan, one of the copartners, had on or about Janury 1, 1921, abandoned the operation without advising H. A. Boyle. That Boyle upon learning that the operation was not

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being protected arranged for a truck and again commenced the operation. Some three weeks elapsed between the suspension of operation by J. J. Ryan and the resumption by H. A. Boyle. The investigation made by this witness in July, 1921, consisted of an inquiry at the Oakland terminal on July 29, at which time it was found that the Oakland terminal had been changed from 319 Franklin street to 422 Franklin street. Inquiry at the new address resulted in information that no truck arrived at Oakland on July 28, 1921, and that the party in charge of the terminal had been informed by one of the Boyles by telephone from Petaluma that the trip would not be made as there was nothing to be brought down.

Witnesses for intervenor, Petaluma and Santa Rosa Railroad Company, testified that since January 15, 1921, the trucks formerly operated by the partnership had been stored in Petaluma, the 1920 license not having been renewed; that on July 14, 1921, a truck loaded with chicken coops containing live poultry left Petaluma and on the following morning deliveries were made to two different consignees in San Francisco; that a prospective shipper at Sebastopol was unable to secure service although making three attempts by telephoning to the office of the carrier in Petaluma. Hugh A. Boyle, one of the defendants, testified that there had been a disagreement with his partner, J. J. Ryan, and that as a result the trucks originally used in the operation of the route had been withdrawn. That on or about January 7, 1921, J. J. Ryan in the presence of witnesses had told witness that he was through with the line and that witness, Boyle, could have it, whereupon the service was resumed, first by using a touring car and later by the use of three trucks. At the hearing an opportunity was given defendants to produce witnesses, residing in Petaluma, to testify as to the service having been continuously operated and as to its general character. Two witnesses were produced but both testified that the service was not available for a period during the month of January, 1921.

The granting of the certificate to this copartnership on September 10, 1920, by Decision No. 8072 on Application No. 5778 followed several hearings at which the desired certificate was opposed and the controlling feature was the proposed establishment of a service from Sonoma County points to Richmond, Berkeley and Oakland, and the opening of a new traffic route for the transportation of farm, poultry and orchard products from Sonoma County to the east bay communities.

The granting of the application conferred a privilege which could only be continued by the grantees fully meeting the obligations and

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responsibilities imposed by the statutory law and the rules and regulations of the Railroad Commission. These include the furnishing to the public of a regular and dependable service in accordance with the rates and time schedules filed with the Railroad Commission as well as compliance with the order of the Commission granting the certificate of public convenience and necessity.

The order in Application No. 5778 (Decision No. 8072) contained the following:

> The Railroad Commission hereby declares that public convenience and necessity require the operation by Hugh A. Boyle, Hugh Allen Boyle and James J. Ryan, copartners, of an automobile truck line as a common carrier of freight and express between Sebastopol and Oakland, Berkeley and Richmond, serving as intermediates the communities at Santa Rosa, Cotati, Petaluma and Novato; provided, however, that this certificate conveys no authority for operation between Oakland and San Francisco; and provided, further, that the rights and privileges hereby authorized may not be transferred or assigned unless the written consent of the Railroad Commission to such transfer or assignment has first been secured.
>
> It is hereby ordered that no vehicle may be operated under this certificate unless such vehicle is owned by the applicants herein or is leased by such applicants under a contract or agreement on a basis satisfactory to the Railroad Commission.

In the present proceeding evidence has been presented, and not controverted by defendants, that operation has been conducted between Petaluma and San Francisco. This is a violation of the order granting the certificate if the route followed was that via Oakland and is a violation of the statutory law if the route was via Sausalito, no certificate of public convenience and necessity being held by defendants, an application therefor having been denied by Decision No. 8072 on Application No. 5578 as decided September 10, 1920.

The order granting the certificate contained a clause that the operative right therein granted should not be transferred or assigned unless the written consent of the Railroad Commission to such transfer or assignment had first been secured. This portion of the order was violated in that the evidence shows that in January, 1921, J. J. Ryan verbally transferred to Hugh A. Boyle his partnership interest in the operative route herein discussed. Also that Hugh Allen Boyle on July 12, 1920, transferred all his interest in the proposed line to Hugh A. Boyle.

The order also contained a clause that no vehicle should be operated under its provisions unless such vehicle was owned by the copartnership or was leased by such copartnership on a basis satisfactory to the Railroad Commission. The evidence in the present proceeding shows that the equipment now used in the operation of the line is owned by the "Boyle family" and there exists no lease or agreement in conformity with the Commission's regulations as contained in Decision No. 5318 on Case No. 1202 as decided April 17, 1918.

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In view of all the evidence in this proceeding we are of the opinion and find as a fact that the operation of the truck line as a common carrier of freight and express as authorized by this Commission's Decision No. 8072 on Application No. 5778 as decided September 10, 1920, has been conducted in violation of the provisions of the order and of the statutory law in that regular service has not been given in accordance with published schedules, that unauthorized transfers of the operative rights have been made, that operation to unauthorized terminals has been made, and that equipment has been operated which was not owned by the copartnership or leased by such copartnership in accordance with the conditions prescribed by this Commission in its order granting the certificate of public convenience and necessity.

ORDER.

Public hearings having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised and basing its order on the finding of fact as set forth in the opinion preceding this order;

It is hereby ordered, that the certificate of public convenience and necessity heretofore granted by this Commission by its Decision No. 8072 on Application No. 5778, (decided September 10, 1920) granting to Hugh A. Boyle, Hugh Allen Boyle and Jas. J. Ryan, copartners, the right to operate automobile truck service as a common carrier of freight and express between Sebastopol and Oakland and intermediate points, be and the same hereby is canceled, and that no further operation by Hugh A. Boyle, Hugh Allen Boyle and Jas. J. Ryan as copartners or as individuals should be given over the route as hereinabove referred to.

Dated at San Francisco, California, this twenty-fifth day of August, 1921.

DECISION NO. 9421.

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED MOTOR FREIGHT LINES, INCORPORATED, FOR AN ORDER AUTHORIZING ISSUE OF STOCK.

Application No. 6952.

Decided August 25, 1921.

J. B. McFarland, for Applicant.

BY THE COMMISSION.

OPINION.

Consolidated Motor Freight Lines, Incorporated, a corporation, has petitioned the Railroad Commission for an order authorizing the transfer to it of the operative rights for the conduct of automobile freight

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lines as common carries of property now owned by A. A. McFarland, operating under the fictitious name of Richmond Motor Express Company, and Mrs. Jean Williams Scott, operating under the fictitious name of Williams Motor Express Company, A. A. McFarland and Mrs. Jean Williams Scott joining in said application and requesting permission to transfer said operative rights. Applicant, Consolidated Motor Freight Lines, Incorporated, also seeks authority for the issuance of 5550 shares of the par value of $27,750 of its capital stock.

A public hearing on this application was conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

The operative rights of A. A. McFarland, who has operated under the fictitious name of Richmond Motor Express Company, and of Mrs. Jean Williams Scott, who has operated under the fictitious name of Williams Motor Express Company, herein proposed to be transferred are those existing by reason of continuous operation prior to and since May 1, 1917, which was the date recognized by the legislature in the passage of chapter 213, Statutes of 1917, as that upon which persons operating stage or truck lines were not required to secure certificate of public convenience and necessity from the Railroad Commission nor permits from the governing bodies of the various political subdivisions through which a route passed. The proposed transfers are to be made in accordance with agreements which are incorporated in the application herein. We are of the opinion that the transfers should be authorized subject to the conditions which will appear in the following order.

We will now consider the portion of the application for authorization of a stock issue.

Consolidated Motor Freight Lines, Incorporated, was organized on or about May 25, 1921, with an authorized stock issue of $75,000, divided into 15,000 shares of the par value of $5 each. In this application, the company asks permission to issue $27,750 par value (5550 shares) of stock for the following purposes:

(*a*) In payment for properties of A. A. McFarland, operating under the fictitious name of Richmond Motor Express Company	$13,000 00
(*b*) In payment for properties of Mrs. Jean Williams Scott, operating under the fictitious name of Williams Motor Express Company	4,000 00
(*c*) To cover organization and promotion expenses	750 00
(*d*) To sell, for cash, at $5	10,000 00
Total	$27,750 00

Applicant, Consolidated Motor Freight Lines, Incorporated, asks permission to assume the payment of $2,875 of indebtedness of Mrs. Jean Williams Scott, operating under the fictitious name of Williams Motor Express Company, such indebtedness consisting of $1,120 rep-

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resenting the balance due on a Packard truck and $1,775 of notes and accounts payable.

The properties which applicant, Consolidated Motor Freight Lines, Incorporated, intends to acquire from A. A. McFarland, operating under the fictitious name of Richmond Motor Express Company, consist of one 2-ton 1917 model White truck chassis with freight body; one 3½-ton 1919 model Atterbury truck with freight body; equipment for both trucks; office furniture and supplies; prepaid insurance and goodwill, including list of names of customers, shippers and consignees. In payment for these properties, applicant asks permission to issue $13,000 of its common stock.

The properties which applicant, Consolidated Motor Freight Lines, Incorporated, intends to acquire from Mrs. Jean Williams Scott, operating under the fictitious name of Williams Motor Express Company, are said to consist of one 3-ton model Packard truck chassis with freight body, equipment for the truck, office furniture and supplies, prepaid insurance and goodwill, including list of names of customers, shippers and consignees. The estimated value of the Williams Motor Express Company's properties is reported at $6,875. From this amount, there is deducted the indebtedness of $2,875, leaving an equity of $4,000, against which applicant asks permission to issue $4,000 of its stock.

It appears from the testimony that the values at which applicant, Consolidated Motor Freight Lines, Incorporated, asks permission to transfer the properties of A. A. McFarland, operating under the fictitious name of Richmond Motor Express Company, and of Mrs. Jean Williams Scott, operating under the fictitious name of Williams Motor Express Company, are high, in that an inadequate allowance has been made for obsolescence and depreciation. We do not believe that applicant should issue more than $10,000 of stock in payment for the properties of A. A. McFarland, nor more than $3,000 of stock in payment for the equity in the properties of Mrs. Jean Williams Scott.

Applicant, Consolidated Motor Freight Lines, Incorporated, intends to sell $10,000 of its stock (2000 shares) at par and asks permission to expend not exceeding 15 per cent of the proceeds to pay commissions and expenses incident to the selling of the stock. The remaining proceeds applicant intends to use to pay the indebtedness which it asks permission to assume, to secure additional equipment and to provide itself with working capital. We believe that this request should be granted, as well as the request of applicant to issue $750 of stock to pay organization and promotion expenses.

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ORDER.

Application having been made to the Railroad Commission for authority to transfer properties and operative rights and to issue stock, a public hearing having been held, the matter having been duly submitted and the Commission being fully advised and of the opinion that the transfers herein sought should be authorized and that the money, property or labor to be procured through the issue of stock herein authorized is reasonably required by applicant, Consolidated Motor Freight Lines, Incorporated, to pay the expenditures herein permitted which are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that authority is hereby granted for the transfer of the operative rights for the conduct of automobile truck lines as common carriers of freight and express heretofore held by A. A. McFarland (operating under the fictitious name of Richmond Motor Express Company) and Mrs. Jean Williams Scott (operating under the fictitious name of Williams Motor Express Company) to applicant, Consolidated Motor Freight Lines, Incorporated, subject, however, to compliance with the following conditions:

I. A. A. McFarland (operating under the fictitious name of Richmond Motor Express Company) and Mrs. Jean Williams Scott (operating under the fictitious name of Williams Motor Express Company) will be required to immediately cancel all tariffs, rates, classifications and time schedules now on file with the Railroad Commission. Applicant, Consolidated Motor Freight Lines, Incorporated, will be required to immediately file new time schedules, tariffs, rates and classifications, or to adopt as its own the tariffs, rates, classifications and time schedules of A. A. McFarland (operating under the fictitious name of Richmond Motor Express Company) and Mrs. Jean Williams Scott (operating under the fictitious name of Williams Motor Express Company) all tariffs, rates, classifications and time schedules to be the same as those heretofore filed by A. A. McFarland and Mrs. Jean Williams Scott. All cancellations and filings to be made in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

II. The rights and privileges, transfer of which are hereby authorized, may not again be transferred, assigned, leased, hypothecated, sold or operation thereunder discontinued unless the written consent of the Railroad Commission to such transfer, assignment, lease, hypothecation, sale or discontinuance of operation shall have first been secured.

III. No vehicle may be operated by applicant, Consolidated Motor Freight Lines, Incorporated, under the authority contained in this

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approval of transfer unless such vehicle is owned by such applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

It is hereby further ordered, that Consolidated Motor Freight Lines, Incorporated, be and it is hereby authorized to assume the payment of $2,875 of indebtedness of Mrs. Jean Williams Scott referred to in this application and to issue $23,750 of its common stock.

The authority herein granted is subject to the following conditions:

I. Of the stock herein authorized to be issued not exceeding $10,000 may be delivered to A. A. McFarland in full payment for the properties referred to in this application and not exceeding $3,000 of stock may be delivered to Mrs. Jean Williams Scott in part payment for the properties referred to in this application.

II. Stock in the amount of $750 may be delivered to J. B. McFarland on account of expenses paid and services rendered in organizing applicant corporation, said expenses and services rendered being referred to in this application.

III. Stock in the amount of $10,000 herein authorized to be issued may be sold by applicant, Consolidated Motor Freight Lines, Incorporated, for cash, at not less than par and the proceeds used for the following purposes:

To pay brokers' commissions and expenses incident to the sale of the stock	$1,500 00
To buy second-hand Ford runabout, a new 2-ton truck chassis with freight body and accessories, to acquire new and larger freight bodies for Atterbury and White trucks	4,525 00
To pay indebtedness assumed not exceeding	2,875 00
For working capital and miscellaneous purposes	1,100 00
Total	$10,000 00

IV. The authority herein granted will not become effective until applicant, Consolidated Motor Freight Lines, Incorporated, has paid the fee prescribed in the Public Utilities Act, such fee amounting to $25.

V. Consolidated Motor Freight Lines, Incorporated, shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

VI. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1921.

Dated at San Francisco, California, this twenty-fifth day of August, 1921.

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DECISION NO. 9422.

PRODUCERS REFINING COMPANY

vs.

SOUTHERN PACIFIC COMPANY, AND ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 1534.

Decided August 25, 1921.

RAILROAD RATES—BRANCH LINE—SWITCHING SERVICE.—The fact that defendant elected to handle branch line traffic with switch engines does not change the service rendered, which is branch line and not switching service.

RAILROAD RATES—REPARATION.—The mere finding of unreasonableness as to a freight rate for the future affords no basis for reparation award, and in view of the fact that the rates were legally established and made to meet war conditions, reparation was denied.

Walter Osborn, for Complainant.
E. W. Camp and *G. H. Baker*, for Defendants.

BY THE COMMISSION.

OPINION.

Complainant, the Producers Refining Company, is a corporation engaged in the business of refining crude petroleum, having a plant at Waits, on the Oil City-Porque branch, which branch line is operated jointly by the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company.

By the complaint, filed February 15, 1921, it is alleged that the rates charged by defendants for the transportation of crude oil in tank cars between points on the Oil City branch line, particularly from Oil City and Ainrof to Waits, are excessive, exorbitant and discriminatory against the complainant and in favor of the large oil companies, who by use of privately owned pipe lines are not required to use the railroads. Complainant prays for a rate of 37½ cents per ton, minimum $12 per car, on crude petroleum and its products from shipping points on the Oil City branch to Waits. It also seeks reparation on shipments moved between March 22 and November 30, 1920.

A hearing was held May 18, 1921, at Bakersfield before Examiner Geary, and the matter is now ready for a decision.

Prior to June 25, 1918, the rate on crude petroleum in tank cars between the points in question was $10 per car; on June 25, 1918, the rate was increased to $15 per car in compliance with General Order No. 28 of the Director General of Railroads; on August 9, 1918, the rate was increased to 4½ cents per 100 pounds, or to 90 cents per ton, plus $10 per car, as per Freight Order No. 96, and on August 26, 1920, the rate was further increased to 5½ cents per 100 pounds, or $1.10 per ton, plus $12.50 per car, as per Application No. 5728. The successive

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increases in rates, with the exception of the last, on August 26, 1920, were established during the period of federal control.

The railroad over which the traffic moves is owned jointly by the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway and is known as the Oil City branch, extending from Oil Junction on the Southern Pacific to Ainrof on one side and to Portque on the other, the distance from Oil Junction to Ainrof being 5.7 miles and from Oil Junction to Portque 6.7 miles, forming a letter "Y." The tonnage covered by this complaint moved from Oil City, six-tenths of a mile south of Ainrof, to complainant's refinery, located at a point north of and adjacent to Waits, the movement involving a haul of approximately three miles. In its petition complainant asks for a rate of 37½ cents per ton contemporaneously in effect at stations having switching limits, as per Item No. 1110-B, Southern Pacific Terminal Tariff No. 230-H, C. R. C. No. 2477, the contention being that the service is performed by a Bakersfield switch engine; that the Oil City branch is operated as a part of the Bakersfield yard limits and that, therefore, regular switching charges should apply.

The rates complained of and those formerly in effect are contained in Southern Pacific Company's Tariffs No. 333-E, C. R. C. No. 1718, and No. 333-F, C. R. C. No. 2395, and cover movements between all points Ainrof to Boaz. Originally the charge was $10 per car regardless of weight. The changes during federal control and the federal guaranty periods increased this charge, based on net weight of 100,000 pounds, to $67.50 per car. The records disclose that complainant's crude oil shipments moved in tank cars and could be made empty, including the time of movement, within 24 hours after the loading commenced. Only 23 cars were forwarded March 22 to November 30, 1920, inclusive, no cars having moved since November, for the reason that the existing charge is prohibitive. At the present time the oil is being hauled by auto trucks at a charge of 12½ cents per barrel, or approximately $37.50 per car of 300 barrels. This cost is approximately 50 per cent less than the rail rate, and 100 per cent higher than the rate the Commission is asked to establish.

Defendants do not seriously attempt to justify the rate charged, but contend that a rate less than $1 per ton would be low and point particularly to the fact that operating conditions in this territory are unfavorable. It is claimed there are now no rates for the movement of oil on line-haul traffic of less than $1 per ton. As a matter of operating convenience the Bakersfield switching engine performs the service on the branch under regular main-line train orders and brings the loaded cars destined to points beyond Oil Junction into the Bakersfield yards, there to be placed in through trains. This branch line is

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not given a regular freight service and no passengers at all are handled.

The fact that defendants elected to handle this branch line traffic with the Bakersfield switch engines does not change the service rendered, which is a branch line and not a switching service. Switching charges generally contemplate a movement of cars at stations within defined switching limits and the charges are published in what are known as Terminal Tariffs. Defendants pointed out that the traffic density at the large terminals—San Francisco, Oakland and Los Angeles—is greatly in excess of that on the Oil City branch and, in consequence, the unit cost per car handled is lower.

Because of the dissimilarity in conditions and the complete blanketing of the switching rate within switching limits, whether the movement be only a few hundred feet or a number of miles, makes the comparison of rates brought forth by the complainant as immaterial and not pertinent in this proceeding.

The testimony of complainant further indicates that practically all other oil producers on the Oil City branch of these defendants transport crude oil to the refineries by privately owned pipe lines and that the refinery of the Producers Refining Company at Waits is the only company which at this time is moving the crude oil from the wells to the refinery by means other than pipe lines. In this situation, as heretofore stated, the crude oil is now being transported to the Waits refinery by automobile trucks, for the reason that the automobile costs are lower than the present rail charges. It is also in evidence that the oil, after having been processed at the Waits refinery, is forwarded to consuming markets by defendants' railroads.

In the light of the various rate comparisons, the incidents of the transportation and the earnings per car, we are of the opinion that the rate now in effect, of 5½ cents per 100 pounds, plus a charge of $12.50 a car, a total charge of $67.50 for a car of 100,000 pounds, is excessive and unreasonable and that a just and reasonable rate for the transportation of petroleum crude oil, in tank cars, from Ainrof and Oil City to Waits, is 3 cents per 100 pounds, with a minimum charge of $15 per car.

Reparation is sought in connection with shipments moved between March 22 and November 30, 1920. Under the provisions of Section 208-a of the Transportation Act, 1920, the federal government guaranteed a fixed rate of return to the carriers, and the rates in effect on February 29, 1920, were to remain in effect until September 1, 1920, unless the changes bringing about reductions were first approved by the Interstate Commerce Commission. It is, therefore, the contention that this commission is without authority to award reparation on shipments moved prior to September 1, 1920. Subsequent to September 1,

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1920, these defendants transported but 13 carloads of oil upon which reparation is claimed. No testimony was offered with reference to the reparation and there is no proof as to who paid the freight charges. The mere finding of unreasonableness as to a freight rate for the future affords no basis for reparation award, and in view of the fact that the rates paid were those legally established, and made to meet war conditions rather than upon a reasonable rate-making basis, we are of the opinion that award of reparation should not be made.

ORDER.

This case being at issue upon complaint and answer on file and having been duly heard and submitted by the parties, and full investigation of the matters involved having been had, and basing its order on the foregoing findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that the defendants, the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company, according as they participate in the transportation, be and they are hereby notified to publish and make effective, on or before November 1, 1921, a rate of three (3) cents per 100 pounds, with a minimum of $15 for the transportation of petroleum crude oil in tank cars from Ainrof and Oil City to Waits, which rate this Commission finds to be just and reasonable.

Dated at San Francisco, California, this twenty-fifth day of August, 1921.

DECISION NO. 9428.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY TO ABANDON ALL PASSENGER SERVICE NOW OPERATED BY IT ACROSS THE SAN ANTONIO ESTUARY IN OAKLAND, ALAMEDA COUNTY, CALIFORNIA, AT OR IN THE VICINITY OF WEBSTER STREET.

Application No. 6560.

Decided August 30, 1921.

PASSENGER SERVICE—ABANDONMENT OF.—No right exists by which the company can at its own convenience select a specific line or a particular service and proceed to abandon such line or service unless the entire situation justifies such proposed abandonment.

E. J. Foulds, for Southern Pacific Company.
J. Allison Bruner, for City of San Leandro.
George E. Sheldon, for Uptown Association of Oakland
T. P. Wittschen and *Ralph Hoyt*, for County of Alameda.
E. W. Hollingsworth and *Bishop and Bahler*, for Traffic Bureau, Oakland Chamber of Commerce.
Charles H. Seecombe, for East Side Board of Trade.

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J. P. Thompson, for Elmhurst Community Club.
Leon Gray, for City of Oakland.
Wilbur Walker, for Merchants' Exchange of Oakland.
W. J. Locke, for City of Alameda.

MARTIN, *Commissioner*.

OPINION.

The interurban electric service the Southern Pacific Company (hereinafter referred to as the company) seeks to abandon in this application consists of two separate services or lines which use its Harrison street drawbridge across San Antonio Estuary, between the cities of Alameda and Oakland, as follows:

(*a*) Between Fourteenth and Franklin streets, Oakland, and Alameda pier (this train service being part of the Oakland and San Francisco interurban electric railway and boat service via Alameda pier), and

(*b*) the crosstown line between Alameda and Oakland with the Oakland terminal at the company's Sixteenth street steam line passenger depot (of this line only the portion between the company's station at Fourteenth and Franklin streets, in Oakland, and Alameda is proposed to be abandoned, while apparently the service between the Fourteenth and Franklin street station and the Sixteenth street main line station in Oakland is to be continued).

Applicant claims that this service is operated at a great loss and that it does not earn sufficient revenue to pay expenses of operation and taxes nor any return upon the valuation or investment in these lines. Applicant states that said lines incur a deficit in railroad operating income of about $6,000 per month and that there is no prospect, either present or reasonably to be contemplated, of said lines being able to earn operating expenses. It is stated in the application that none of said lines are feeders for or furnish any facilities whatsoever in connection with the general steam railroads of the company and that the traffic handled is exclusively local and transbay.

In support of the application it is further stated that the entire transbay and local electric service operated by the company in Oakland, Alameda and Berkeley failed to earn the expenses of operation during the calendar year 1920 by the sum of $668,416.85, after payment of taxes to the State of California, and that there is no prospect, so far as known, of materially reducing such operating deficit. The services rendered to the public by means of said lines of railroad, it is claimed, are in effect a duplication of services rendered either by this company or by the street car system operated in Oakland, Alameda and Berkeley by the San Francisco-Oakland Terminal Railways and it is stated that the public can be adequately accommodated upon such other existing railroad lines.

After postponing the first hearing set in this matter upon request of the company, a hearing was held in Oakland on June 20, 1921, when exhibits were introduced and testimony was heard. An additional ten

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(10) days subsequent to the hearing were given to the parties in the proceeding to file with the Commission such statements or exhibits as they might desire and this time has now elapsed. At this hearing a further postponement of the hearing was urgently requested by the company and a letter written by Mr. Wm. Sproule, the president of the company, was read into the record, in which he says:

> On June 20, the Commission has set for hearing:
>
> Case No. 1536, *City of Oakland* vs. *Southern Pacific Company*, asking for the construction of a curve connecting the Southern Pacific lines on Seventh and Webster streets, etc., and
>
> Application No. 6560, of Southern Pacific Company to abandon the service which is now operated over the Harrison street drawbridge between Oakland and Alameda.
>
> Both of the foregoing cases have a direct bearing upon the proposed sale or lease of the Southern Pacific Company's station grounds at Fourteenth and Franklin streets and the development of said property. All of these matters can not logically be handled except as parts of the same transaction.
>
> This company has a committee of traffic experts making a fresh study, not only of the matters above mentioned, but of the entire transbay traffic situation generally with a view of reducing the present operating deficit of over $600,000 annually on the transbay lines by the elimination of unnecessary service, the elimination of duplication of service, and the rerouting of trains and cars wherever advantageous and at the same time satisfying the traffic requirements. This, of course, involves a scientific analysis of the traffic and revenues not only upon the existing lines operated, but which might be secured by the establishment of new or different routes of travel in lieu of, or perhaps in some cases in addition to, those which are now operated.
>
> This committee has been at work about six weeks and their work shows that it would be impossible to attempt to reach an intelligent determination of these traffic questions until their work has been completed. It is virtually impossible to deal with any of these matters piecemeal without a comprehensive understanding of the situation as a whole.
>
> I believe it will take about ninety days to complete the investigation now under way, and in order that the Commission, the city of Oakland, and ourselves may have the benefit of the result of this work, I ask that both of the cases above mentioned be continued for about ninety days.

A further postponement was resisted, however, by protestants, the city of Oakland, the board of supervisors of Alameda County, and by others. They urged a hearing and a disposition of the application because of certain collateral issues of great importance to the transbay communities and which, in their opinion, were largely or in part dependent upon the action of the Commission in this application. The main ones of these collateral issues are the matter of the erection of a new bridge across San Antonio Estuary in lieu of and adjacent to the Harrison street bridge and the Webster street bridge of the county of Alameda and the question of proper handling of freight in case applicant's Harrison street bridge were abandoned.

The company opposed the consideration of any issues or the introduction of any testimony or exhibits in this proceeding dealing with any collateral issue or any issue outside the one specifically presented in its application and such testimony as was taken on these matters and such exhibits as were introduced are in the record over the protest of the company.

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The showing made by the company in support of the application consists of testimony and exhibits intended to give traffic revenue and expense figures on the lines sought to be abandoned. The principal figures as shown in these exhibits, and as furnished by the company, may be summarized as follows:

A. *Crosstown line between Alameda and Oakland.* (From applicant's Exhibits Nos. 2 and 3.)

Number of passengers carried for the year 1920	2,078,788
Revenue accrued for year 1920	$117,836 58
Passenger operating revenues for September and October, 1920	20,052 92
Operating expenses for same months, consisting of maintenance of way and structures, maintenance of equipment, traffic, transportation, miscellaneous operations and general	29,591 11
Net revenue from railway operations (loss)	9,538 19
Railway tax accruals (5¼ per cent of revenues)	1,052 78
Railway operating income (loss)	10,590 97

B. *Between Fourteenth and Franklin streets, Oakland, and San Francisco, via Alameda pier.* (From applicant's Exhibit No. 3.)

Number of passengers carried for the year 1920		1,472,983
Revenue accrued in the year 1920:		
Allocated to line	$78,703 88	
Apportioned to line	90,093 47	
		$168,797 35

C. *Between Fourteenth and Franklin streets, Oakland, and San Francisco, via Oakland pier.* (From applicant's Exhibit No. 3.)

Number of passengers carried for the year 1920		2,404,853
Revenue accrued for year 1920:		
Allocated to line	$143,763 82	
Apportioned to line	153,157 10	
		$296,920 92

(The method by which apportionment is made of revenue to line is shown in applicant's Exhibit No. 3.)

D. *Oakland, Alameda and Berkeley electric suburban lines—rail operations only.* (From applicant's Exhibit No. 4.)

Railway operating income—	Year ended Dec. 31, 1920	4 months ended April 30, 1921
Total railway operating revenues	$1,908,895 90	$663,031 46
Total railway operating expenses	2,477,095 70	808,776 56
Net loss from railway operations	568,199 80	145,745 10
Railway tax accruals	100,217 05	34,809 16
Railway operating loss	668,416 85	180,554 26

E. There was also filed with the Commission by applicant a statement showing operating revenues, expenses and taxes of the Fourteenth and Eighteenth street electric suburban lines for September and October, 1920. This statement shows:

Passenger operating revenues for both months	$48,324 93
Operating expenses, including maintenance of way and structures, maintenance of equipment, transportation, and general	51,776 04
Net revenue from railway operations (loss)	3,451 11
Railway tax accruals (5¼ per cent of revenue)	2,537 05
Railway operating income (loss)	5,988 16

Applicant takes the position that it has the legal right to abandon this service when it is shown that it has been in the past and is now operated at a financial loss and that there is no reasonable prospect

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of profitable operation in the immediate future and that there is no alternative for this Commission but to grant the application.

Applicant contends that there can be no doubt of the operating losses on the particular lines sought to be abandoned in this application. It seeks to establish that contention by reference first to the figures summarized in statement "D" above, where the loss of over $600,000 for the year 1920 is shown for the aggregate rail operations of the entire transbay interurban electric system operated by applicant. The company also contends that not only has it proven the unprofitableness of all its transbay electric passenger service, but that it has proven the unprofitableness of the particular lines or the particular operations sought to be abandoned.

It would appear that two questions arise in connection with this contention:

First, is it a fact that the transbay electric interurban service given by the company results in ultimate loss to the owners of the Southern Pacific Company, when all factors entering into the problem are fairly considered and given their proper weight, and is it reasonable and practicable from the standpoint of public necessity and convenience to abandon this entire service, assuming that an operating loss could be shown?

Second, assuming that the entire transbay system did show an operating loss, is it a fact that the particular lines sought to be abandoned are operating at a loss, and has applicant the right to abandon at will such portions of the lines and such portions of the services of the entire system as may suit its convenience, or should service be curtailed and lines abandoned, if need be, only after the relative losses of the different lines and services have been ascertained and after the relative importance of the different lines and services, from the standpoint of public convenience and necessity, is known?

No answer can be had to either of these two questions from the evidence submitted by the company in this proceeding. No right exists, in my opinion, by which the company can at its own convenience select for reasons of its own and not apparent from the record, as far as the company is concerned, a specific line or a particular service on a specific line and proceed to abandon such a line or service, unless the entire situation is known and unless it is determined by competent authority that a particular abandonment is required and justified under all the circumstances.

The facts are that applicant operates in connection with its main line passenger and freight operations, using partly the same facilities and equipment and under the same ownership and management, an

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electric interurban railway and ferry service. This interurban system serves the city of San Francisco and several important transbay communities, including Oakland, Berkeley and Alameda. The population of the territory making use of this service, and in considerable degree dependent upon it, is in the neighborhood of one million. In all of applicant's financial and accounting operations this transbay system forms an integral part of the entire Southern Pacific system and in its annual reports to its stockholders and in the annual reports to the Interstate Commerce Commission, and to this Commission, the operations of this particular branch of the Southern Pacific system are incorporated and reflected exactly as is every other branch of the entire service given by the company. The net profits from the company's operations in the annual reports are determined after these particular operations have been taken into account.

When the questions of valuation and fair return of the country's carriers were before the Interstate Commerce Commission, in the recent adjustment of rates, this interurban property was part and parcel of the rate base considered by the Interstate Commerce Commission and the operating revenues and expenses for the Southern Pacific lines considered by the Interstate Commerce Commission included the transbay interurban operations.

This Commission, in permitting the same increases in applicant's interurban fares that had been granted by the Interstate Commerce Commission to applicant's steam line passenger fares, also was of the opinion that the situation of the company, as a whole, should be considered and no specific investigation was made into the operations of the transbay system alone.

The character and scope of applicant's transbay service has been repeatedly described in previous decisions of this Commission. There should be considered in this proceeding, among other things, the apportionment between main line and suburban traffic of the value of the property, the expense of operation and depreciation, and also the factor of competitive lines operating in the same territory and the history of the construction of the Southern Pacific suburban lines. Applicant, however, has produced no evidence whatever permitting a fair survey of its entire transbay business and of the relation of this branch of its operations to its main line freight and passenger service.

It must be apparent that any statement of expense of operation is influenced primarily by the position taken in reference to—

(*a*) the character of the service, *i. e.*, whether this service is considered as a by-product of the main-line operations of the company or

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whether the service should in every respect be considered as a separate and distinct enterprise under the necessity of making its own way;

(*b*) the methods adopted for apportionment of property and expense which is joint, directly or indirectly, for suburban and main line service and for passenger and freight service;

(*c*) the methods of apportionment adopted for property and expenses as between different lines and services in the interurban operations.

With reference to the apportionment of revenue and expense to the particular services sought to be abandoned, the company, in my opinion, has entirely failed to substantiate the contention that this particular service is operated at a loss. Mr. Robert Adams, the assistant auditor of the company, is applicant's witness in this matter. He submitted and explained the statements which have been summarized above and testified that practically the entire expense of operation, as shown in his exhibits, would be eliminated and saved by the company if the lines were abandoned as prayed for.

When he was asked how he could estimate such a saving without taking into consideration, at the same time, the loss of income now received by the company from these services, he testified that, in his opinion, no loss in revenue would result to the company and that the income now derived from the services sought to be abandoned would be added to the income from other present services given by applicant, because such other services could take care of this business.

The facts in the case clearly show that this view is erroneous. It is apparent that the business now done by the Alameda and Oakland crosstown line (providing the company with revenue for the year 1920 of $117,837) would be lost to the company in its entirety in case of abandonment of the entire service because this business could only be handled by the competing traction line. The local business now done on the Fourteenth and Franklin street interurban line via Alameda pier would also be lost to the company, but what revenue would be lost because of the abandonment of the Oakland-San Francisco through service via Alameda pier is problematical. This, in fact, appeared to be the view taken by another one of the company's witnesses (Mr. J. P. Potter, superintendent of transportation of the San Francisco-Oakland Terminal Railways, the Southern Pacific Company's competing line in the transbay service). His testimony is introduced by the company in order to show that public convenience and necessity would not suffer by the proposed abandonment because the Key Route lines are said to be amply able to take care of the traffic now handled by

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applicant between Oakland and Alameda. He testified as follows (tr. p. 183-184):

Q. If the Southern Pacific abandoned the operation of this so-called dinky line between Oakland and Alameda, could the lines of your company adequately handle the traffic?

A. Yes, we could take that over without any serious inconvenience, from the traffic that I understand that they are handling there at the present time.

Q. If the traffic requirements should increase, could you accommodate the traffic, and also put on additional equipment as may be necessary?

A. We would do the same with that line that we do with every other line; we would make very careful surveys of the number of people that were handled and the hours that they were traveling and arrange a service accordingly.

Q. And if the traffic would warrant express service you might be able to do that, is that right?

A. It is somewhat difficult to install an express service where you are operating short headway. We never have found that to be a very satisfactory proposition.

Q. You have other expedients, such as skip-stops, and other schemes to expedite the headway, where the traffic is great, have you not?

A. On one line we have what might be termed as a restricted service between Hayward and Oakland in the morning and in the afternoon, but, as I stated before, an express service to operate together with local cars that are running under short headway, is difficult to establish.

Mr. Foulds: That is all.

Mr. Potter was asked to make an estimate of the portion of the business now handled by the Southern Pacific lines which would fall to the Key Route in the event of their abandonment. This estimate he has filed since the hearing and it shows that the Key system furnishes sufficient extra seats to take care of the Southern Pacific crosstown line traffic and that Mr. Potter believes it reasonable to assume that his road would get this traffic.

It must be apparent that if the Southern Pacific Company loses any portion or all of the revenue now derived from these services, the saving estimated by Mr. Adams in his exhibits will be greatly reduced or wiped out. In my opinion there will be no saving, and very probably there will be a loss, and the net result of the operations of the entire transbay system will be more unfavorable to the company after the abandonment of these services than they are at present. I come to this conclusion because, according to the company's own figures, the net loss from railway operations of the Fourteenth street and Eighteenth street lines for September and October, 1920, amounted to only $3,451. If by a different segregation of expense this book loss should be eliminated (and this result might easily and perfectly legitimately be obtained) then it would seem that this service was at least self-sustaining. Since it is clear that by an abandonment of the service a considerable proportion of the present operating expenses can by no means be eliminated and must go on regardless of whether this business is lost to the company, it is clear to me that the loss to the company may easily be greater after abandonment than it is now.

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It is a fact that many operating expenses will continue, in whole or in part, even if these services were abandoned. This is true of many maintenance of way and structures expenses, and of many maintenance of equipment expenses, for only those expenses that vary with the car miles operated would be affected. For example, the decay of ties would go on almost regardless of the car miles operated. It is true of all general expenses and it is even true of certain classes of transportation expenses.

Assuming, for the purpose of this discussion, that in the interest of economy and with public convenience and necessity permitting, certain of the interurban lines or services should be abandoned, even then such abandonment should only be permitted after the present situation in regard to the entire transbay service is properly before the Commission in all of its aspects. Abandonments should then be permitted only in the proper order. Such services or lines should first be abandoned as are not required by public convenience and necessity and that show the largest losses. This Commission can not permit a utility to abandon services to suit its own purposes, especially when the real purposes are not apparent from the application.

The company is aware of the necessity of a comprehensive view of the situation. President Sproule's letter quoted above states:

> It is virtually impossible to deal with any of these matters (referring to the transbay traffic problems) piecemeal without a comprehensive understanding of the situation as a whole.

A great deal was said at the hearing about the investigation now being made by the company through a committee of traffic experts. We understand that this committee has been at work for a number of weeks and is now at work and is reporting to the superior officers of the company. Applicant, however, is unwilling at this time to inform either the interested communities or this Commission of the scope and character of the instructions given this committee or of the nature of the work they are doing. Since the recommendations of this traffic committee, assuming it is free and capable to study the situation as it exists and to report its unbiased conclusions, must undoubtedly be of great importance to the business and to the people of the transbay communities, it would seem wise that the views and wishes of the representatives of these people and interests be from the beginning in the mind of that committee. Also, applicant is aware that this Commission itself, through its engineering and service departments, has made exhaustive investigations into the transbay interurban service, both Southern Pacific and Key Route, and that the conclusions of the Commission's employees were incorporated in an elaborate report

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which is available to the company. While this Commission has no desire, of course, to inject itself into any detail matter of management or operation, unless this is necessary in formal or informal proceedings, here is a situation where undoubtedly, in the end, nothing permanent or satisfactory can be accomplished unless the communities interested, the railroads, and this Commission act in cooperation. If an honest effort is made to solve these present problems, the course best calculated to produce results for all concerned, in my opinion, would be to begin with this cooperation rather than to end with it. This, as it appears from the record, is also the view of the cities of Oakland and Alameda, and of the county.

There were introduced by the county of Alameda, over the protest of applicant, exhibits showing the orders issued by the War Department, demanding the abandonment of the present county drawbridge at Webster street and the present Southern Pacific bridge at Harrison street, and covering an agreement between the county of Alameda and the Southern Pacific Company providing for the construction of a joint bridge in lieu of the two to be abandoned. It appears that several years ago the county of Alameda voted a bond issue of $900,000 for the portion of its share of the cost of the new joint bridge and that approximately $200,000 has thus far been expended by the county towards such construction. According to the agreement between the county and the company, applicant was to furnish final plans for the bridge and construction was to begin in the near future, the last order of the War Department reading to the effect that the old bridge must be removed by July 1, 1922.

Counsel for the county of Alameda expressed the opinion that the real reason for the abandonment of service proposed in this application was a disinclination of the company at this time to proceed with the construction of the bridge under the terms of the contract, principally on account of the much higher present costs for labor and material, as compared with the original estimates. It does not seem necessary for us to express an opinion whether or not this matter is a controlling factor in this application. It is apparent, however, that in the present proceeding applicant asks for permission to abandon certain passenger service only and that nothing is said in the application that would justify the assumption that an abandonment of structures or taking up of any trackage is contemplated by the company. The Harrison street bridge, which is part of the line over which the service here considered is operated, not only is a facility used in the passenger service, but is also used in applicant's freight service. If the bridge were abandoned and no other railroad bridge reconstructed in its place, there also would have to result changes in the freight

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service. There is nothing in the present record that would indicate whether or not the Southern Pacific intends to make such changes in its freight service. The city of Oakland and the Chamber of Commerce of Oakland, as also the county of Alameda, laid stress on the importance of that aspect of the matter.

These matters are mentioned, not because they have any particular bearing on the question of whether or not the passenger service sought to be abandoned is required in the interest of public convenience and necessity or whether this service results in a loss to the company, but merely to further substantiate the soundness of the proposition that a solution of the transbay problem can not be had by piecemeal adjustments but should proceed only after the entire situation is known and properly before the Commission.

It is my opinion that the contention of applicant that public convenience and necessity permit the granting of this application and that large losses will be incurred by applicant if such service is continued and that, on the other hand, large savings can be made if such service is abandoned, has not been established. On the contrary, the record clearly shows that there is protest on the part of the cities of Oakland and Alameda, and on the part of the county of Alameda, and also on the part of many individuals against the abandonment of this service and that a very large number of people would be seriously inconvenienced if this service were done away with. I am satisfied that only very controlling reasons proving serious damage to applicant could permit the Commission to grant this application and such reasons have certainly not been shown in this record. It is my recommendation, therefore, that the application be denied. I suggest the following form of order:

ORDER.

Application having been made by the Southern Pacific Company to abandon all passenger service now operated by it across the San Antonio Estuary in Oakland, Alameda County, California, at or in the vicinity of Webster street, a hearing having been held and the Commission having given careful consideration to all the evidence and to the general circumstances in connection with the service sought to be abandoned; and it appearing to the Commission that public convenience and necessity demand the continuation of this service and that such service should not be abandoned until it has been clearly established that permanent serious and irreparable loss would result to the company from the continuation of this particular service, and no such proof having been made before the Commission:

It is hereby found as a fact, that public convenience and necessity require a continuation of this service at this time; and

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It is hereby ordered, that the application should be and hereby is denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of August, 1921.

DECISION NO. 9429.

JAMES MARWICK

vs.

LAGUNA BLANCA WATER COMPANY.

Case No. 1330.

Decided August 30, 1921.

WATER UTILITY—SERVICE—ABANDONMENT OF.—Failure of a user to carry out an agreement does not lose to him rights to service. Authority to discontinue service can be granted only by the Commission. Obligation on the part of the company was assumed when it undertook to serve water to the property in question and this property is rightfully entitled to its proportionate supply.

Thompson and Robertson, for Complainant.
Archibald M. Johnson and *A. A. De Ligne*, for Defendant.

BY THE COMMISSION.

OPINION.

James Marwick, complainant in the above entitled matter, alleges that defendant, Laguna Blanca Water Company, is a public utility water company, delivering water for domestic and irrigation use to the residents of Hope Ranch and subdivisions thereof in the county of Santa Barbara; that said defendant has failed, refused and neglected to furnish water to complainant's premises located in Hope Ranch Park No. 1, formerly served by defendant. Complainant further alleges that said premises are within the territory which defendant holds itself out to serve. An amended complaint was filed, demanding service of water, not only upon complainant's land lying within the area of Hope Ranch Park No. 1, but also upon lands owned by him lying outside of said area.

Defendant in its answer alleges that complainant's premises can not be supplied with water from its system by gravity at the present time for the reason that the said premises are located at a higher elevation than defendant's reservoir and that the pipe line formerly used for supplying this service was abandoned by mutual consent between defendant and one of the former owners of the premises. It is further alleged in the answer that it would be impossible to deliver water to

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complainant by the method formerly used for the reason that the present system is not in such condition as to withstand the pressure necessary to force water up to complainant's premises. Finally, it is contended that defendant's water supply is insufficient to furnish service to complainant without detracting from the supply to the balance of its consumers.

Public hearings were held in this matter before Examiner Satterwhite at Santa Barbara, and investigations were made by Mr. M. E Ready, a representative of the Commission's hydraulic division.

From the evidence, it appears that in 1902 the Pacific Improvement Company acquired large holdings of land just north of Santa Barbara, including the Hope Ranch, part of which was later subdivided and called Hope Ranch Park No. 1. On August 31, 1906, the Pacific Improvement Company deeded to the water company a large tract of land on the western slope of the San Rafael Mountains comprising several hundred acres, together with all tunnels, pipe lines, etc., then owned by the Pacific Improvement Company.

It appears that the Pacific Improvement Company sold only five tracts in Hope Ranch Park No. 1. Of these, three were subsequently repurchased by the company. One of the remaining two tracts is that consisting of Lots 66, 67 and part of 69, containing approximately eight acres, which was sold to James McNulty, II, on January 24, 1913. On March 1, 1917, he sold this property to Stephen Rutherford, who in turn, on May 6, 1918, transferred it to James Marwick, complainant herein.

The evidence shows that the water company's main source of supply is a tunnel located on a tract of land on San Rafael Mountain at an elevation of 1377 feet above sea level, and that the minimum flow from the tunnel is approximately twelve miner's inches. The water is conducted from the tunnel through a six-inch pipe line approximately five miles long to a reservoir of 1,000,000 gallons capacity on the Hope Ranch at an elevation of about 370 feet above sea level. Laguna Blanca is located between the reservoir and the tunnel at an elevation of about 150 feet and is used when the reservoir is full to store the surplus water which is later used for irrigation.

The evidence shows that the Laguna Blanca Water Company held itself out to supply water to any one within the area of Hope Ranch Park No. 1, and has also supplied for the last ten years about 15 consumers located along its transmission line and outside the boundaries of this subdivision. It is clear that it has been operating as a public utility, and this the company admitted at the first hearing in this proceeding.

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Immediately after Mr. McNulty purchased Lots 66, 67 and part of 69, which are at an elevation of approximately 550 feet, from the Pacific Improvement Company, the water company installed a pipe line and a tank to supply him with water. He was served from that time until January 20, 1917, when his house burned down. It appears that the tank was filled from two to four times a month. This water was used exclusively by Mr. McNulty for household purposes and irrigation on this eight-acre tract. A number of other lots near by could have been supplied from this tank, but it appears that no other consumers were ever so served. The evidence also shows that as late as May or June of 1917 water was supplied to Mr. Rutherford, successor of Mr. McNulty. This was the last service made to this property by the water company. After negotiations were started to sell to Mr. Marwick the pipe line was disconnected from the tank by the water company, and after Mr. Marwick had filed complaint with the Commission the remaining portion of the pipe line was removed.

On April 15, 1916, Mr. McNulty signed an agreement whereby he agreed to accept service at a much lower elevation than formerly and to install a tank and pumping plant to elevate the water to the company's tank on the top of the hill. The company agreed to sell him this tank and additional land on which to build this pumping plant. The time limit for this installation was set at November 1, 1916. This agreement, however, was never carried out and the company continued to serve until May or June of the following year. The company now claims that inasmuch as Mr. McNulty failed to build his pumping plant, that he abandoned all rights to service to his property.

Authority to discontinue service can be granted by the Railroad Commission only, and it appears that the defendant has never filed such an application. Although the evidence indicates clearly that defendant's water supply is limited, its contention that there is insufficient water for the supply of complainant's premises should not be urged at this time. Obligation on the part of the company was assumed when it undertook to serve water to this property at the time it was purchased by Mr. McNulty, and this property is rightfully entitled to its proportionate share of the present supply whatever that may be.

To supply water to this property in the manner in which it was previously supplied will, we believe, greatly increase the maintenance expense of the entire system. This will act to the detriment of all the other consumers in the quality of their service and also make the service more expensive. With this in mind, we believe it would be

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unfair to the other consumers to require the restoration of the service in question in the manner heretofore furnished.

In our opinion a fair and proper adjustment of this matter is as follows: Defendant should furnish service to complainant at the foot of the steep slope below the latter's property, at a point in Lot 70 in said Hope Ranch Park No. 1, on Collado avenue, near the boundary line between Lots 55 and 70, said point being practically that formerly chosen for the location of a pumping plant, and being the highest point to which defendant can deliver water by gravity from its reservoir. Defendant should then provide the complainant, on a fair basis, with proper easements or rights-of-way for the construction, operation and maintenance of a pumping plant located as above, and for a pipe line across intervening property to the property of complainant, said plant and pipe line to be constructed, operated and maintained by complainant.

Complainant has contended that he is entitled to service to his entire property, both within and outside of Hope Ranch Park No. 1. In view of the very limited supply of water at the disposal of defendant, we are of the opinion that defendant should not be required to serve beyond the area to which it has to date undertaken to give service.

ORDER.

James Marwick having filed formal complaint with the Railroad Commission against the Laguna Blanca Water Company, as outlined above, public hearings having been held, the matter having been submitted and being now ready for decision:

It is hereby found as a fact, that the Laguna Blanca Water Company, defendant herein, is engaged in the business of distribution and sale of water as a public utility;

2. That the property owned by the plaintiff at the time of the filing of this complaint, being Lots 66 and 67 and part of Lot 69 of Hope Ranch Park No. 1, is within the area to which service of water by defendant has heretofore been dedicated and has heretofore been supplied water by said defendant;

3. That the reconstruction and maintenance of the necessary pipe line and the use thereof by defendant for supplying water to said property of plaintiff to the point of delivery heretofore used would involve unreasonable expense to defendant;

And basing its order upon the foregoing findings of fact and upon the further statement of facts in the opinion which precedes this order;

It is hereby ordered, that the Laguna Blanca Water Company deliver water in proper quantity to complainant, Marwick, for use on

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Lots 66, 67 and part of Lot 69 of Hope Ranch Park No. 1, only, at a point on Lot 70, of Hope Ranch Park No. 1, located adjacent to Collado avenue near the boundary line between Lots 55 and 70 and at the highest elevation to which water can be delivered from its reservoir;

2. That the Laguna Blanca Water Company shall provide the complainant, on a fair basis, with proper easements or rights-of-way for the construction, operation and maintenance of a pumping plant located on Lot 70, at the point described above, and for a pipe line across intervening property to the property of complainant;

3. That the Laguna Blanca Water Company be not required to reconstruct its pipe line and resume service to the complainant at the point above indicated until complainant has constructed the plant and pipe line necessary to transmit the water from said point to his property;

4. That within thirty (30) days of the date this order is served upon said Laguna Blanca Water Company, and every thirty days thereafter until this order is fulfilled, it shall file with this Commission a detailed statement of the progress made in carrying out the provisions herein set forth.

Dated at San Francisco, California, this thirtieth day of August, 1921.

DECISION NO. 9430.

IN THE MATTER OF THE APPLICATION OF WILLITS WATER AND POWER COMPANY, FOR LEAVE TO REFUND PROMISSORY NOTES.

Application No. 7051.

Decided August 30, 1921.

Lilienthal, McKinstry, Raymond, Haber and Fitzhugh, by *Arthur Raymond*, for Applicant.

ROWELL, *Commissioner*.

ORDER.

Willits Water and Power Company has asked permission to issue an unsecured note or notes for $6,000, bearing interest at 7 per cent per annum and payable one year from date, to refund $6,000 face value of notes held by the Bank of Willits. The record shows that applicant borrowed $2,000 from the Bank of Willits to purchase meters and $4,000 to purchase lands for watersheds and dam site. It is this indebtedness that applicant asks permission to refund. Applicant has no bonded indebtedness. Its indebtedness, other than that mentioned, consists of a $1,000 note and such current temporary indebtedness as is necessary in the operation of its business.

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A hearing having been held in the above entitled matter and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified in this order and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Willits Water and Power Company be and it is hereby authorized to issue, on or before December 31, 1921, an unsecured note or notes in the aggregate face value of $6,000, bearing interest at 7 per cent per annum and payable one year from date, for the purpose of refunding the $6,000 face value of notes referred to in this application, provided:

That the authority herein granted shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act; and provided further:

That Willits Water and Power Company will keep such record of the issue and sale of the note or notes herein authorized and the use of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of August, 1921.

DECISION No. 9433.

IN THE MATTER OF THE APPLICATION OF COAST TRUCK LINE, A CORPORATION, FOR AN ORDER AUTHORIZING THE INCREASING OF FREIGHT CLASS RATES BETWEEN SAN DIEGO-OCEANSIDE AND INTERMEDIATE POINTS.

Application No. 6857.

Decided August 30, 1921.

Henry J. Bischoff, for Applicant.
Warren E. Libby, for Boulevard Express.
Harry N. Blair, for R. C. Walker.

BY THE COMMISSION.

OPINION.

The Coast Truck Line is a corporation and by this application seeks an order authorizing the increasing of its freight class rates between San Diego-Oceanside and intermediate points.

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A public hearing was held upon the application by Examiner Westover at San Diego.

Applicant operates two divisions, one between San Diego and Oceanside, known as its Oceanside division, being the route formerly operated by Roy Jakeway, and the other the division covering the territory between Los Angeles and Escondido via Oceanside.

There are now but two schedules of class rates in effect between San Diego and Oceanside, the territory San Diego to and including Encinitas having a blanket schedule of rates of: First class 25 cents, second class 22 cents, third class 20 cents and fourth class 18 cents. At points Carlsbad to Oceanside, inclusive, the rates are: First class 30 cents, second class 27 cents, third class 23 cents and fourth class 20 cents. It is proposed to increase the rates in the first division to: First class 33 cents, second class 30 cents, third class 28 cents and fourth class 25 cents. In the second division: First class 38 cents, second class 35 cents, third class 31 cents and fourth class 26 cents. These proposed rates include pickup and delivery service at both terminals and would be slightly higher than the station to station rates now in effect between the same points via the Atchison, Topeka and Santa Fe Railway. The classification of commodities is governed by Monroe's Ship by Truck Freight Classification.

A large part of applicant's traffic is handled under the minimum charge of 50 cents and under special commodity rates, neither of which is to be changed by this application.

Applicant acquired the Oceanside Truck Line and commenced operation on March 20, 1921.

At the hearing, applicant presented an operating statement of Oceanside Truck Line for a period of six and two-thirds months up to March 20, 1921, when applicant acquired the line, showing operating expenses of $8,356.99 and freight revenue of $6,963.05, or an apparent deficit of $1,393.94; also an operating statement for one and one-third months, from March 20, 1921, to May 1, 1921, during which time it operated the line, showing operating expenses of $1,690.04, and freight revenue of $1,380.61, showing an apparent operating loss for that period of $309.43. For the first period, it showed an approximate average tonnage of ten tons per day and daily revenue of $41.50; and for the second period, an average tonnage of nine tons per day and average daily revenue of $38.35.

As the first period covered was that immediately preceding the applicant's operation of the line, and as the second period was too brief for satisfactory analysis and showed only local business on the Oceanside division, Examiner Westover requested the applicant to file an operat-

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ing statement from March 20, 1921 (the date it acquired the line), to July 1, 1921, showing separately the results of operating the Oceanside division, and of operating both divisions, from which it appears that the loss on the Oceanside division was $712.63 and the loss on the entire system was $3,260.39. Attention is called to the fact that on the Escondido division the service is performed to a great extent by hired trucks, which is probably responsible for the poor financial results. He also requested a traffic check at representative periods, from which it appears that the average tonnage handled was about 7.6 tons per day and daily revenue $39.88, and that its revenue under the proposed rates would have been increased about 24 per cent. The periods so selected by applicant for checking as periods which would illustrate an average movement of traffic by its line during the year were the last ten days of October, February, and May last, respectively.

If revenue on the Oceanside division were increased by 24 per cent to $4,580.48, the apparent loss for the division would have been converted into an apparent net earning of $173.92 for the period of three and one-third months, or $626.04 per year upon an apparent investment of $9,875. Applicant's operating expenses, as shown in its statements, appear to be reasonable upon being checked, but its rate of depreciation and the theory upon which it is based can not be approved by the Commission. However, as we are satisfied from the showing made that applicant needs relief, we authorize the establishment of the rates applied for.

ORDER.

A public hearing upon the above entitled application having been held, the matter being submitted and now ready for decision;

It is hereby ordered, that Coast Truck Line be and it is hereby authorized and empowered to publish and thereafter charge and collect for transportation of freight between San Diego and Oceanside the rates shown in Exhibit "A" attached to above Application No. 6857.

Dated at San Francisco, California, this thirtieth day of August, 1921.

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DECISION NO. 9434.

IN THE MATTER OF THE APPLICATION OF KENNETT WATER COMPANY, A CORPORATION, FOR LEAVE TO MAKE A SURCHARGE UPON ITS EXISTING RATES, AND FOR AN ORDER OF THE RAILROAD COMMISSION FIXING THE AMOUNT OF SUCH SURCHARGE.

Application No. 6101.

Decided August 30, 1921.

WATER UTILITY—SURCHARGE—LOSS OF BUSINESS.—Request of applicant for a surcharge, due to loss of business resulting from the suspension of a large industrial plant, denied, the Commission holding that it is the duty of a utility to share the temporary burden with the rest of the community.

WATER UTILITY—RATES—SERVICE.—Increase can not be granted which would result in a charge beyond what the service is reasonably worth.

Charles W. Slack and *Edgar T. Zook*, by *O. K. Patterson*, for Applicant.
Messrs. *Carr and Kennedy*, by *Francis Carr*, for the United States Smelting and Refining Company and for their employees.
John Treichler, for the Board of Trustees of the City of Kennett.

BY THE COMMISSION.

OPINION.

Kennett Water Company, applicant in the above entitled matter, is a public utility water company engaged in the business of selling and distributing water for domestic and industrial purposes to consumers in and in the vicinity of the town of Kennett, Shasta County, California.

In this proceeding applicant asks the Commission to authorize a surcharge to be applied on its existing rates, alleging that the rates in effect do not produce revenue sufficient to defray maintenance and operation expenses and provide a fund for unforeseen contingencies. At this time no substantial interest return is expected to be produced on the investment.

A public hearing was held in this matter before Examiner Westover, at Kennett. All of applicant's consumers were notified of the hearing and given an opportunity to appear and be heard.

Kennett Water Company has been before the Railroad Commission in two previous proceedings, namely, *City of Kennett* vs. *Kennett Water Company*, Case No. 715, Decision No. 2918, dated November 9, 1915 (Vol. 8, p. 395, Opinions and Orders of the Railroad Commission of California), and *Hoy et al* vs. *Kennett Water Company*, Case No. 1039, Decision No. 4509, dated August 2, 1917 (Vol. 13, p. 649, Opinions and Orders of the Railroad Commission of California). At the hearing herein it was stipulated that the records, reports and evidence with relation to the cases quoted should be considered in evidence in this matter, and reference is therefore made to those proceedings for

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the early history of Kennett Water Company and other matters pertaining to its operation. The present rates of this utility were approved in Decision No. 4509, *supra*.

It is alleged that the present rates returned to applicant a sufficient revenue in normal times, but evidence shows that in May, 1919, the United States Smelting and Refining Company, which operates in Kennett and which was applicant's principal consumer, discontinued its operations and by reason of the discontinuance of this industry, the domestic consumption has also been greatly reduced, as shown by the fact that while the smelter was in operation there were some 311 active services; at present there are only about 104 active services.

A field investigation of this system was made by one of the Commission's hydraulic engineers, who presented at the hearing a report recommending an annual maintenance and operation allowance of $5,718, and also the sum of $600 as a fair replacement annuity for the system computed by the sinking fund method.

Applicant submitted exhibits showing its cost of maintenance and operation for the year 1920 to be $6,970, and its depreciation allowance $1,673. This expense, however, included an item of approximately $1,800 for extraordinary ditch repair, which the Commission's engineer has amortized over a period of several years.

The following tabulation shows the revenues of applicant as reported in its annual reports to this Commission:

Year:	
1912	$11,620 61
1913	14,360 20
1914	14,332 22
1915	13,641 13
1916	14,663 66
1917	15,692 81
1918	15,231 96
1919	9,760 03
1920	5,678 65

This tabulation and a study of the maintenance and operation expense, indicate that applicant received a liberal return upon its investment during the period that the smelting company was operating its plant.

It appears that applicant has made no effort to reduce operating expenses during the present abnormal period, and in view of the existing conditions we believe that economies even more far-reaching than those recommended by the Commission's engineer can be put into effect. The evidence shows that the activities of the community have been much reduced by the suspension of the smelting company's operations and that persons remaining in the town have been forced to curtail their expenditures until smelting operations are resumed.

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Applicant should practice the most rigid economy in order to reduce its expenditures to a minimum and by so doing it is probable that the revenues received will be sufficient to cover the necessary costs and provide a proper replacement annuity. In this time of stress we believe that it is the duty of applicant to share the burden caused by the loss of the town's principal industry to the limit of its ability. The rates now in effect are high in comparison with rates in other localities where a similar service is rendered, and the establishment of a surcharge would be a burden upon the present consumers, and would result in a charge that is more than the service is reasonably worth. We are therefore of the opinion that this application should be denied.

ORDER.

Kennett Water Company having made application to the Railroad Commission for authority to establish a surcharge and thereby increase its charges for water, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact, that the present rates charged by applicant are reasonable for the service rendered.

And basing its order upon the foregoing finding of fact and the other statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that the application of the Kennett Water Company for authority to establish a surcharge be and the same is hereby denied.

Dated at San Francisco, California, this thirtieth day of August, 1921.

DECISION No. 9435.

IN THE MATTER OF THE APPLICATION OF P. T. DURPHY (SHERMAN WATER COMPANY) FOR AUTHORITY TO INCREASE RATES.

Application No. 6666.

Decided August 30, 1921.

Martin M. Levering, for Applicant.

LOVELAND, *Commissioner.*

OPINION.

P. T. Durphy, applicant in the above entitled proceeding, owns and operates a public utility water system supplying water for domestic and commercial purposes to the inhabitants of Sherman, Los Angeles County. The application alleges in effect that, because of increased costs of maintenance and operation, the system is now being operated at a loss under the existing schedule of rates. The Commission is

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therefore asked to establish a schedule of rates which will produce a reasonable return to applicant.

A public hearing in this matter was held in Los Angeles before Commissioner Loveland. All interested parties were given an opportunity to be present and be heard.

This utility obtains its water supply from several small tunnels in Franklin Canyon and from two wells located in the town of Sherman. The water from Franklin Canyon flows by gravity into a concrete reservoir of about 600,000 gallons capacity. This water is transmitted by gravity to the town of Sherman where there is another concrete reservoir of 340,000 gallons capacity, which stores the water from both Franklin Canyon and the wells. These wells are operated by air lift and discharge into the smaller reservoir. A booster pump is so arranged that the water from this reservoir may be pumped to the Franklin Canyon reservoir for additional storage when conditions warrant. The system has approximately three and one-half miles of transmission main and four miles of distribution mains.

The rates at present in effect were established about 1907 and are as follows:

Monthly flat rate	$1 25
Monthly meter rates—	
Domestic:	
¾-inch meter, 800 cubic feet or less, per month	1 25
All over 800 cubic feet, per 100 cubic feet	075
For meters over ¾-inch, 800 cubic feet or less, per month	1 50
All over 800 cubic feet, per 100 cubic feet	075
For purposes other than domestic use:	
In quantities over 5000 cubic feet per month, per 100 cubic feet	075

There are 352 consumers, of whom 251 are metered, and 101 are served on a flat basis.

Mr. M. R. MacKall, one of the Commission's hydraulic engineers, made a field investigation of this system and submitted a report and appraisal showing the estimated original cost of the properties, exclusive of real estate, to be $34,095, and an annual replacement fund, computed by the sinking fund method, in the amount of $509. A. J. Salisbury, a consulting engineer, testifying on behalf of applicant, stated that he estimated the reproduction cost new of this system, excluding real estate, to be $60,500 and the present value about $30,200. No estimate of the original cost of the properties was submitted by applicant other than the amount stated in the application, which is $34,641. A careful analysis indicates that the amount of $39,095, including the lands necessary and useful to the system, is a fair and reasonable rate base. The amount of $4,910 was estimated by Mr. MacKall to be a reasonable allowance for the annual maintenance and

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operation expense, exclusive of taxes. The operating expenses, submitted by the applicant, included certain capital charges. A careful consideration of the evidence leads to the conclusion that the amount of $5,277, including taxes, is a fair estimate of the reasonable and proper maintenance and operation expenses for the immediate future.

Following is a summary of the foregoing items which go to make up the annual charges of this utility:

Return on $39,095 at 8 per cent	$3,128 00
Replacement annuity	509 00
Maintenance and operation cost	5,277 00
Total estimated annual charges	$8,914 00

The revenues for 1920 were $5,914. It is therefore evident that the applicant is entitled to an increase in rates. The present rates place an unfair burden upon the small user, which the schedule established in the accompanying order is designed to eliminate.

I recommend the following form of order:

ORDER.

P. T. Durphy having made application to the Railroad Commission as entitled above, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact, that the rates now charged by P. T. Durphy for water supplied to his consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing its order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order;

It is hereby ordered, by the Railroad Commission of the State of California, that P. T. Durphy be and he is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order, the following schedule of rates for water delivered to his consumers in Sherman on and after October 1, 1921, said schedule to become effective as of that date and supersede any and all rate schedules for said service heretofore on file or in effect:

Monthly flat rate	$1 25
Monthly meter rates—	
Service charge for each meter in use:	
⅝-inch and ¾-inch meters	0 50
1-inch meter	75
1½-inch meter	1 00
2-inch meter	1 25
3-inch meter	1 50
4-inch meter	2 50
Unit price for water used:	
0 to 400 cubic feet, per 100 cubic feet	20
400 to 10,000 cubic feet, per 100 cubic feet	13
Over 10,000 cubic feet, per 100 cubic feet	12

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It is hereby further ordered, that P. T. Durphy be and he is hereby directed to file with the Railroad Commission within thirty (30) days from the date of this order, rules and regulations governing service to his consumers, said rules and regulations to become effective as corrected and amended upon their acceptance for filing by the Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of August, 1921.

DECISION NO. 9436.

IN THE MATTER OF THE APPLICATION OF EUCLID AVENUE WATER COMPANY, FOR AN ORDER AUTHORIZING THE ISSUE OF A NOTE AND EXECUTION OF A MORTGAGE IN FAVOR OF MR. ERNEST FLEUR.

Application No. 7088.

Decided August 30, 1921.

Theodore F. Taylor, for Applicant.

BY THE COMMISSION.

OPINION.

Euclid Avenue Water Company asks permission to issue a $2,500 7 per cent five-year note and to execute a mortgage to secure the payment of the note.

A hearing was had on this application before Examiner Williams at Los Angeles on August 24.

Applicant intends to acquire at a total cost of $3,000 a piece of real property 330 feet long by 127½ feet wide adjoining the lot now owned by it. It has agreed to pay $500 of the purchase price in cash and issue a $2,500 7 per cent five-year note for the remainder. Applicant's secretary is of the opinion that it should acquire this additional property for the purpose of protecting its water supply and to secure the property while available at a reasonable price. Applicant does not at this time intend to construct any improvements on the property which it has agreed to purchase. Inasmuch as applicant is acquiring property which for the time being at least appears to be nonoperative, the order herein will permit the issue of the note provided that applicant will not urge the Commission to include in a rate base the cost of the properties acquired.

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The mortgage which applicant asks permission to execute will be a lien only on the property which it intends to acquire. It will not be a lien on any of the company's present operative properties.

ORDER.

Euclid Avenue Water Company having applied to the Railroad Commission for permission to issue a $2,500 7 per cent five-year note and execute a mortgage, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured through the issue of the note is reasonably required by applicant and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Euclid Avenue Water Company be and it is hereby authorized to issue a $2,500 7 per cent five-year note and to execute a mortgage substantially in the same form as that filed in this proceeding to secure the payment of said note.

The authority herein granted is subject to the following conditions:

1. The proceeds realized through the issue of the note shall be used by applicant to pay in part the cost of acquiring the properties described in this application.

2. The authority herein granted to execute a mortgage is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which such mortgage may be subject.

3. By exercising the authority herein granted, applicant agrees that it will not urge the Commission to include in a rate base any of the properties which it is herein permitted to acquire so long as such properties are of a nonoperative character.

4. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee amounts to $25.

5. Euclid Avenue Water Company shall keep such record of the issue of the note herein authorized and of the use of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted will apply only to such note as may be issued and delivered on or before December 1, 1921.

Dated at San Francisco, California, this thirtieth day of August, 1921.

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DECISION No. 9437.

IN THE MATTER OF THE APPLICATION OF PASADENA ELECTRIC EXPRESS COMPANY FOR PERMISSION TO SELL REAL ESTATE, RETIRE CAPITAL STOCK AND BORROW MONEY.

Application No. 7074.

Decided August 30, 1921.

W. H. Archdeacon, for Applicant.

BY THE COMMISSION.

OPINION.

Pasadena Electric Express Company asks permission to issue a three-year 6 per cent note for $11,500, mortgage and sell certain properties and to retire $25,000 of common capital stock.

A hearing was had on this application before Examiner Williams at Los Angeles on August 24.

Pasadena Electric Express Company was organized in 1919. By Decision No. 6534, dated July 30, 1919, the Commission authorized applicant to issue $50,000 of stock and also a $9,500 6 per cent three-year note secured by mortgage on real estate located in the city of Los Angeles. All of the stock, as well as the note, were subsequently issued by applicant. Of the outstanding stock, $30,000 is reported to be owned by Fred J. Weaver, $7,500 by F. S. Imes and $12,500 by W. H. Archdeacon. The testimony shows that F. S. Imes and W. H. Archdeacon have agreed to acquire $5,000 of stock from Fred J. Weaver and that they have given their consent to the corporation acquiring the remainder of the Fred J. Weaver stock, to wit, $25,000, at a cost of $22,562. The company intends to secure $20,562 of the necessary moneys to acquire the stock from the sale of certain operative and nonoperative real estate and $2,000 through the issue of a note. This Commission is not interested in the purchase of the stock by the company except to the extent that such purchase may involve the distribution of part of the assets of applicant and thus probably affect its service.

W. H. Archdeacon, applicant's general manager, testified that the company is not now using all of its real property located in Pasadena in its operations. He is of the opinion that it is advantageous for the company to sell the real property located in Pasadena, and more particularly described in this application, for the price of $20,562 and lease such portion of the property as it actually needs in the operation of its business. The property which it requires can be leased for $102.50 per month. A copy of the lease is filed in this proceeding. At the present time applicant is paying Fred J. Weaver, who is its principal

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stockholder, a salary of $250 per month. If this transaction is consummated, Fred J. Weaver will no longer be employed by the company and it is believed by applicant's general manager that the company can save at least $125 per month through this transaction. Applicant and its predecessor for some years past have been operating over the lines of the Pacific Electric and have gradually substituted motor vehicles for horse-drawn vehicles. On account of the change in the character of the equipment, applicant finds it unnecessary to retain all of its real estate.

ORDER.

Pasadena Electric Express Company having applied to the Railroad Commission for permission to issue a note, sell or mortgage certain real estate and to retire capital stock, a public hearing having been held, and the Commission being of the opinion that applicant may retire part of its capital stock without an order from this Commission and that the money, property or labor to be procured through the issue of the note herein authorized is reasonably required by applicant and that the expenditures herein permitted are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Pasadena Electric Express Company be and it is hereby authorized to issue a three-year 6 per cent note for the principal sum of $11,500 and to execute a mortgage substantially in the same form as the mortgage filed in this proceeding to secure the payment of the note.

It is hereby further ordered, that Pasadena Electric Express Company be and it is hereby authorized to sell for the sum of $20,562 the following described property:

Lot eighteen (18) of Park Bluff, in the city of Los Angeles (Garvanza), county of Los Angeles, State of California, as per map recorded in book 66, page 34, miscellaneous records of said county.

The north ninety-five and six-tenths (95.6) feet of lot two (2), all of lot three (3) and the south two (2) feet of lot four (4) of the Julia E. Ward Homestead Tract, in the city of Pasadena, county of Los Angeles, State of California, as per map recorded in book 7, page 54, miscellaneous records of said county.

The authority herein granted is subject to the following conditions:

1. The sum of $9,500 obtained through the issue of a note herein authorized shall be used by applicant to refund the $9,500 indebtedness incurred pursuant to the authority granted in the order in Decision No. 6534, dated July 30, 1919. The remaining $2,000 obtained through the issue of the note, together with the proceeds realized from the sale of the property herein authorized, shall be used by applicant to retire $25,000 of capital stock referred to in this application.

2. The authority herein granted to execute a mortgage is for the purpose of this proceeding only, and is granted in so far as this Com-

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mission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which such mortgage may be subject.

3. Pasadena Electric Express Company shall keep such record of the issue and sale of the note herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by the Public Utilities Act, which fee amounts to $25.

5. The authority herein granted will apply only to such note as may be issued on or before November 15, 1921.

Dated at San Francisco, California, this thirtieth day of August, 1921.

DECISION No. 9442.

IN THE MATTER OF THE APPLICATION OF W. D. GREER FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO STAGE SERVICE BETWEEN FELLOWS AND McKITTRICK, VIA SANTA FE CAMP, AMERICAN OIL FIELDS AND SHALE.

Application No. 6832.

IN THE MATTER OF THE APPLICATION OF ROBERT C. DEAR AND W. D. GREER FOR AN ORDER GRANTING PERMISSION TO SELL AND TRANSFER EACH TO THE OTHER A ONE-HALF INTEREST IN OPERATING RIGHT AND EQUIPMENT OF THOSE CERTAIN AUTO STAGE LINES NOW OWNED BY APPLICANTS AND FOR PERMISSION TO CONSOLIDATE AND OPERATE SAID LINES THEREAFTER AS ONE SYSTEM.

Application No. 6897.

HOMER RHYNE AND C. L. RHYNE, DOING BUSINESS AS A COPARTNERSHIP UNDER THE NAME OF RHYNE AND RHYNE,

vs.

W. D. GREER, DOING BUSINESS UNDER THE NAME OF W. D. GREER STAGE COMPANY.

Case No. 1642.

Decided August 31, 1921.

AUTO STAGES—CONSOLIDATION OF CONNECTING LINES.—Upon an application to consolidate two connecting lines, applicants will be required to show that a public necessity clearly exists for the through service, particularly when the poposed through service will be in competition with existing lines rendering satisfactory service. In present case applicant held to have failed to make required showing.

H. B. La Monte, for Applicants Robert C. Dear and W. D. Greer and Defendant W. D. Greer.

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Douglas Brookman, for Rhyne and Rhyne, Kern County Transportation Company, and Kitchen, Boyd and Ingalls, Complainants and Protestants.

Irwin and Laird, by *Rollin Laird*, for Kern County Transportation Company and Kitchen, Boyd and Ingalls, Protestants.

H. A. Loveland, for William Giminiani, Protestant.

BY THE COMMISSION.

OPINION.

In Application No. 6832, W. D. Greer, operating what is known as the W. D. Greer Stage Company, has made application to the Railroad Commission in which he applies for permission to operate his automobile passenger stages between Fellows and McKittrick, via Santa Fe Camp, American Oil Fields and Shale and to abandon his present route between Taft and McKittrick which runs via the Associated Oil Company Camp.

In Application No. 6897, Robert C. Dear, operating the Bakersfield-Buttonwillow and McKittrick Stage Line has applied to the Railroad Commission for permission to sell a one-half interest in his operative right and equipment, which includes two eight-passenger Cadillac cars, to W. D. Greer for the sum of $4,500 and W. D. Greer applies for permission to transfer a one-half interest in his operative right between Taft, McKittrick, Lost Hills, Bakersfield, G. P. Camp, Associated Camp, San Luis Obispo and Pismo and intermediate points, including a one-half interest in equipment consisting of two twin-six Packard cars to Robert C. Dear for a consideration of $9,500, both of such applicants to consolidate their operative rights and thereafter operate both routes as a single system.

In Case No. 1642, Homer Rhyne and C. L. Rhyne, doing business as a copartnership under the name of Rhyne and Rhyne, have filed a complaint against W. D. Greer, doing business under the fictitious name of W. D. Greer Stage Company, in which they allege that defendant's operation through the town of Fellows is illegal and that defendant has no operative right permitting service to Fellows due to the fact that neither defendant himself nor his predecessor in interest, Western Auto Stage Company, had ever rendered service to the town of Fellows up until May, 1921, always operating their stages along the highway approximately a mile east of Fellows.

A hearing upon the above entitled proceedings was held before Examiner Satterwhite on Tuesday, August 18, 1921, at Bakersfield, at which time the matters were submitted and they are now ready for decision. By stipulation of counsel the three proceedings were consolidated for hearing, the evidence submitted in each to be applicable to all.

Applicant W. D. Greer, in support of his application for permission to change his present route betwen Fellows and McKittrick, testified

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in effect that there are at the present time a considerable number of men employed at Santa Fe Camp, American Oil Fields and Shale; that at different times these men desire transportation from their places of employment to Fellows or Taft and that due to the fact that there is no authorized carrier operating between such points at the present time they are obliged to depend either upon private conveyances or to telephone to Fellows for rent cars; that the rates charged by the rent cars for transportation, Santa Fe Camp to Fellows is 25 cents, and that the rate charged by such cars from American Oil Fields and Shale to Fellows is considerably higher than the rate proposed by applicant between such points. Such testimony was substantiated by other witnesses residing in the territory in question.

Applicant also testified that there are at the present time very few local passengers to be secured along his present route between Fellows and McKittrick and that the abandonment of such route would not work a hardship upon those employed or residing along such route, particularly in view of the fact that such territory is also served by the stage line operated by Rhyne and Rhyne.

In Application No. 6897, being an application to consolidate the Dear and Greer lines, applicants testified that the consolidation of these two routes and their operation as a unit would have a tendency to materially benefit the present service rendered to the traveling public between the points served by such routes and if such consolidation was permitted passengers traveling between Bakersfield and Taft, via McKittrick, would not be obliged to change cars at McKittrick and that such consolidation would also permit one of the copartners to remain at San Luis Obispo and the other at Bakersfield, so that the supervision of their operation would be more efficient.

Such consolidation was strenuously protested by the Kern County Transportation Company and Kitchen, Boyd and Ingalls, operating stage lines between Bakersfield and Taft over what is known as the direct route, also by Rhyne and Rhyne, who operate in connection with the two last named stage lines between Taft, Fellows and McKittrick.

The distance between Bakersfield and Taft over the route operated by the Kern County Transportation Company and Kitchen, Boyd and Ingalls is given as thirty-eight miles, while the distance between Bakersfield and Taft, via McKittrick, is fifty-seven miles.

It would appear from the evidence herein submitted that the proposed consolidation of the Dear and Greer lines is primarily for the purpose of establishing a through route, Bakersfield to Taft, via McKittrick, such route to be operated in competition with the present service rendered by the Kern County Transportation Company and

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Kitchen, Boyd and Ingalls, Bakersfield to Taft, and Rhyne and Rhyne line, Taft to Fellows and McKittrick.

Applicants in support of their petition for permission to consolidate submitted no testimony whatsoever to show that there is a public necessity for the establishment of an additional through route between Bakersfield and Taft, via McKittrick, but that in fact if such route were established, it would necesitate the traveling public using the same to travel an additional distance of approximately nineteen miles and would undoubtedly also inconvenience passengers at intermediate points who could not be transported should the stages of Dear and Greer be filled with through passengers upon leaving terminals.

At the time of filing their application for permission to consolidate their respective routes both applicants herein were instructed at the time that until such application had been acted upon favorably by the Commission neither could operate his cars over the route served by the other. It would appear from the evidence herein that contrary to such instruction both applicants on July 4, 1921, each began the operation of their respective cars over the route controlled under operative rights by the other applicant and that each continued to so operate until definitely instructed to discontinue such service by the Railroad Commission. It was further shown that subsequent to July 20, 1921, on several occasions, through cars were operated, that such operation was claimed by applicants to be necessitated through the fact that cars had broken down and connection could not be made at McKittrick, which required one of such applicants to lease the car and employ a driver of the other applicant for the purpose of finishing such portion of the trip required over the operative right held by the other applicant. The frequency of these through trips alleged to be necessary by reason of mechanical failure of cars is looked upon by the Commission as a subterfuge and such methods of operation should not occur in the future.

The Commission usually permits, when no opposition is presented, the transfer of operative rights and equipment when such operative rights are transferred as a single unit, but upon an application to transfer and consolidate two connecting lines, applicants will be required to show, and to the satisfaction of the Commission, that a public necessity clearly exists for the through service which they propose to establish by such consolidation, particularly when the proposed through service will be in direction competition with existing lines which have been and are rendering a satisfactory service to the traveling public.

Applicants herein failed to make a showing which would justify the Railroad Commission in authorizing the consolidation as proposed,

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which consolidation would, in effect, result in the establishment of a through operative right from Bakersfield to Taft via McKittrick.

Complainants in Case No. 1642, petition the Railroad Commission for an order declaring that defendant has no right or authority to operate auto stages as a transportation company through the town of Fellows or any part thereof, or for local business to or from such town of Fellows, and that any operation so conducted by defendant at the present time be declared illegal, without authority, and in violation of the provisions of chapter 213, Statutes of 1917, and amendments thereto.

Defendant herein was authorized to purchase the operative rights of the Western Auto Stage Company between Taft, McKittrick, San Luis Obispo and Pismo and intermediate points, such operative rights having been acquired by the Western Auto Stage Company by reason of operation in good faith prior to May 1, 1917, and continuously thereafter. The tariffs and time schedules heretofore filed with this Commission by the Western Auto Stage Company showed Fellows as an intermediate point served in connection with its operation between Taft and San Luis Obispo and the tariffs and time schedules of W. D. Greer Company, successor to the Western Auto Stage Company, also quoted rates to Fellows and included such town as an intermediate point served by such route.

Witnesses for complainant testified in effect that the stages of the Western Auto Stage Company and also of the W. D. Greer Stage Company had never stopped at Fellows to pick up or discharge passengers, but that in fact complainants, Rhyne and Rhyne, had a verbal understanding with the general manager of the Western Auto Stage Company, which was also renewed with W. D. Greer of the W. D. Greer Stage Company, to the effect that all passengers originating at Fellows who desired transportation to points along the Taft-San Luis Obispo route, would be transported by Rhyne and Rhyne from Fellows to Taft, where a connection would be made with the San Luis Obispo stages.

Witnesses for defendant, including former drivers, testified that they had always called at Fellows, both east and west bound, with the exception of such times as the stage leaving Taft carried a capacity load or upon the return trip when there were no passengers for discharge at Fellows.

The evidence as regards the service of defendant to Fellows was extremely conflicting and in view of the fact that no positive showing was made that defendant has not been continuously rendering service to Fellows as an intermediate point and in view of the additional fact

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that the tariffs and time schedules of the Western Auto Stage Company, predecessor in interest to defendant, and also the tariffs and time schedules of defendant now on file with the Railroad Commission, have always shown Fellows as an intermediate point served by defendant, we are of the opinion and find as a fact that defendant herein has an operative right permitting service to Fellows. The complaint herein will, therefore, be dismissed.

After full consideration of the evidence herein submitted, it is the opinion of the Commission that the application of W. D. Greer to change his route between Fellows and McKittrick, routing his stages via Santa Fe Camp, American Oil Fields and Shale should be granted, and that the application of Dear and Greer to consolidate their respective routes should be denied.

ORDER.

A public hearing having been held upon the above entitled proceedings, the matters having been duly submitted and the Commission being fully advised:

The Railroad Commission hereby declares that public convenience and necessity require the operation by W. D. Greer of an automobile stage line as a common carrier of passengers between Fellows and McKittrick, serving as intermediate points the communities at Santa Fe Camp, American Oil Fields and Shale, and a certificate of public convenience and necessity be and the same hereby is granted subject to the following conditions:

1. That applicant, W. D. Greer, shall abandon his present route now operated between Fellows and McKittrick and shall file within ten (10) days from date hereof his written acceptance of the certificate herein granted and shall file within not less than twenty (20) days from date hereof tariffs of rates and time schedules substantially the same as the tariffs of rates and time schedules included as Exhibits "A" and "B" in Application No. 6832 and shall begin operation within a period of not less than twenty (20) days from date hereof. In all other respects the effective date of this order shall be twenty (20) days from date hereof.

2. That the rights and privileges hereby authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. That no vehicle may be operated by the applicant, W. D. Greer, unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

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It is hereby ordered, that Case No. 1642 be and the same hereby is dismissed; and

It is hereby further ordered, that Application No. 6897 be and the same hereby is denied.

Dated at San Francisco, California, this thirty-first day of August, 1921.

DECISION No. 9443.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA GAS COMPANY FOR AUTHORITY TO INCREASE RATES.

Application No. 6442.

Decided August 31, 1921.

GAS UTILITY—DEFERRED MAINTENANCE.—The utility having neglected to provide for necessary maintenance, it is held unfair to rate-payers to fully allow replacement costs in operating and capital accounts.

RATE OF RETURN.—Applicant's request for 10 per cent rate of return, due in part to benefits and economies resulting from introduction of natural gas, not allowed, as the utility's voluntary rate was not based on such consideration

Chickering and Gregory, by *Evan Williams,* for Applicant.
C. L. Preisker, City Attorney of Santa Maria, for City of Santa Maria, County of Santa Barbara, Ladies Improvement Club of Orcutt, Chamber of Commerce of Santa Maria, and the Union Sugar Company.
F. H. Johnson, for Town of Betteravia and the Union Sugar Company.
E. D. Rubel, for City of Santa Maria.
J. W. Walker, for Oil Workers' Union.
W. T. Shipsey and *C. P. Kaetzel,* for City of San Luis Obispo.

MARTIN, *Commissioner.*

OPINION.

Santa Maria Gas Company, applicant herein, requests authority to increase its rates and charges for all classes of gas service rendered by it, alleging that practically all the rates now in effect, except certain industrial schedules, were established prior to January, 1913; that since the establishment of present rates the cost of labor and materials has largely increased; that after July 1, 1921, applicant will be obliged to pay a higher price for the natural gas which it procures; and that it is rendering first class service and that its acts have effected improvements, efficiencies and betterments to the service of direct value to its consumers. It is further alleged that the rates now charged are inadequate to return applicant a sufficient amount to properly provide for operating costs, depreciation and a fair return upon its investment. Applicant requests that the Railroad Commission investigate its operations and thereupon establish just and reasonable rates.

Applicant submitted evidence in this proceeding by testimony of its manager, Mr. R. E. Easton, and also in the form of exhibits and testimony covering the financial and operating conditions of the company

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by its engineer, Mr. Gaskell S. Jacobs. Evidence for the cities of Santa Maria and San Luis Obispo was presented by City Attorneys C. L. Preisker and C. P. Kaetzel, respectively. It was stipulated that applicant's annual reports, other records before the Commission, and such other information as the Commission may require, be considered in evidence; that Application No. 5200 and Decision No. 7231 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 17, page 879), also the record in Application No. 6303, be considered in evidence; that a certified public accountant representing the city of San Luis Obispo be permitted to examine applicant's books; and further, that the city attorneys of San Luis Obispo and Santa Maria be given five days from the submission of this proceeding within which to file briefs, and that counsel for applicant be granted three days within which to reply. The matter has been submitted and is now ready for decision.

Applicant was engaged in supplying natural gas for domestic and commercial purposes prior to the passage of the California Public Utilities Act and because of this fact none of its rates, except the above noted industrial schedules fixed under Application No. 4840, have been established by this Commission, as no other rate applications have heretofore been filed. At the present time applicant has a multiplicity of rate schedules which are the outgrowth of operations under a long period of changing conditions. It is obviously apparent these rate schedules should be simplified and revised, and also that applicant's rules and regulations governing gas service be revised to properly comply with the rules specified at present by the Railroad Commission.

Applicant now has in effect for domestic service a flat rate of $1 per thousand cubic feet in all the larger towns. There are numerous commercial rates varying from 45 to 75 cents per thousand feet, while industrial schedules provide for charges of 25 to 31 cents per thousand feet. The street lighting rate now being charged under special contract with the city of San Luis Obispo is $2.50 per lamp per month.

Applicant supplies the towns of Santa Maria, San Luis Obispo, Arroyo Grande, Pismo, Guadalupe, Avila, Betteravia, Nipomo, Orcutt, Sisquoc and certain territory contiguous to its transmission lines, with natural gas received from the Santa Maria oil fields. The present company is the successor to the Santa Maria Gas and Power Company, which had been operating in the vicinity of Santa Maria since about 1907. For a period of years the Midland Counties Public Service Corporation had been supplying artificial gas to consumers in San Luis Obispo. Service was unsatisfactory and the Santa Maria company prepared to lay a transmission line to the city of San Luis Obispo, whereupon the Midland company purchased an abandoned oil pipe line

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and itself introduced natural gas to San Luis Obispo and established a rate of 50 cents per thousand cubic feet, or half that charged by the Santa Maria Gas and Power Company, which had completed its line to San Luis Obispo. After a long period of competition an agreement was entered into whereby the Santa Maria company purchased the gas properties of the Midland Counties Public Service Corporation and the present Santa Maria Gas Company was thereupon organized.

The purchase by Santa Maria Gas and Power Company of these properties for the sum of $388,000 was authorized by the Railroad Commission by its Decision No. 7231 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 17, page 879), with the reservation that the purchase price should not later be binding before the Commission as a value in fixing applicant's rates. The same domestic rate of $1 per thousand cubic feet as was in force on the Santa Maria Gas Company system was put into effect on lines acquired from the Midland Counties company. By the terms of the purchase of the Midland company's properties the Santa Maria company acquired an 8-inch transmission line from the Santa Maria oil fields to Avila and a 4-inch line from Avila to San Luis Obispo. The major portion of this 8-inch line has now been abandoned and salvaged, as it was not required for the operation of the reorganized company.

The plant of the Santa Maria Gas Company comprises a system of high pressure transmission lines receiving their supply from a gas engine driven compressor station located in the oil fields and delivering gas a distance of about eight miles to the town of Santa Maria, and to other lines, continuing to the north a further distance of thirty miles, supplying San Luis Obispo and other towns along the way. In San Luis Obispo there are installed two gas storage holders having a total capacity of 300,000 cubic feet and also a booster plant for increasing the gas pressure during periods of heavy demand. Applicant obtains its supply of natural gas from the Santa Maria oil fields. Gas produced in this district is all "casing-head" gas of good quality. Tests by the Commission's engineers showed it to average about 1100 British thermal units per cubic foot. A new contract for a period of ten years starting August 1, 1921, has been entered into with the Union Oil Company for the purchase of gas at the rate of 10 cents per thousand, and provides for a monthly minimum delivery of 15,000,000 cubic feet. Additional gas amounting to about 10,000,000 cubic feet per month is purchased from the Rice Ranch Oil Company and the Western Union Oil Company.

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At the time of the hearing of this application testimony was introduced regarding the relative cost of gas service in the two cities of Santa Maria and San Luis Obispo, the former city contending that it has in the past been obliged to carry a portion of costs chargeable to the city of San Luis Obispo, inasmuch as the two cities have the same rates and the latter is considerably more distant from the source of gas supply. It was agreed that the Commission should make a special investigation of this phase of the proceeding in order that equitable rates be established. This investigation of operating conditions shows that the rendering of service to San Luis Obispo and other northern communities is more expensive than supplying the city of Santa Maria and consumers close to the oil fields along the main transmission lines. Much additional investment in pipe lines, holders and other equipment is required and additional costs are incurred for compressing the gas to higher pressures for transmission to and for distribution in San Luis Obispo. These additional costs are not fully offset by the greater volume of domestic sales in San Luis Obispo. It therefore appears proper that a differentiation be made in the rates charged in San Luis Obispo and Santa Maria.

Applicant submitted Exhibits Nos. 4, 5, 6 and 7 relative to its investment in operative properties. By Exhibit No. 6 it set forth the sum of $806,551 as the amount of its fixed capital, which, with its estimates for materials and supplies and working cash capital, totaled $846,551 for rate base claimed. These figures were based upon the "book values" of the properties of the former Santa Maria Gas and Power Company, to which were added certain depreciated reproduction costs of operative property acquired from Midland Counties Public Service Corporation. It is to be noted that this appraisal included values for the Midlands properties at the actual purchase price, less deductions for pipe lines salvaged and other nonoperative items. It was stipulated in Application No. 5200 that the purchase price of Midland company's properties should not necessarily be binding before the Commission in the future fixing of rates. Further, it is to be noted that the depreciated reproduction cost, upon which the purchase was made, was based upon prices of 1920, which was the peak period of construction costs and a long time after the actual construction of the properties and not reasonably indicative of the historical cost. Other items of value included in the appraisal represented charges for certain gas leases now expired and no longer in force.

While the Commission has not at this time made an inventory or appraisal of applicant's system, it has in connection with former appli-

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cations for bond issues and transfers of property investigated the value of applicant's properties. In view of the information now before me I am of the opinion that the rate base urged by applicant is in excess of what would from the evidence be considered reasonable. The Commission's engineers have given special consideration to this matter and have arrived at figures materially lower than applicant's. Without finally passing on the matter of property values, I find the following capital estimate to be a reasonable basis in determining the rates herein. If deductions are made from applicant's estimated rate base of $846,551 for values of expired gas contracts, for abandoned and salvaged property, for revisions of allowances for working capital and supplies, and for differences between applicant's depreciated reproduction cost and the Commission's engineers' estimates of historical cost as determined from the records before the Commission for the property acquired from Midland Counties Public Service Corporation which is useful, the figure of $707,800 is determined as being fairly representative of applicant's total investment in operative physical property used and useful in the public service.

For some time applicant has not earned a full return upon its investment and has neglected during the past period of high construction costs to fully provide for all necessary maintenance on its pipe lines and is now confronted with the necessity of heavy charges for deferred maintenance. Actual field inspection of the various transmission lines was made by one of the Commission's engineers in order to determine the extent of repairs necessary. Attention should at this time be drawn to the fact that according to testimony, much of the pipe was originally laid without being properly protected with paint before laying. This condition has unquestionably materially hastened the need of present replacements, which, if fully allowed in operating charges and capital accounts, would be unfair to the rate-payer, as they could have been partly avoided by the exercise of good engineering by the utility at the time the lines were installed.

The following tabulation sets forth comparative figures for the operations during the year 1920 and estimated operations for 1921. It is to be noted that the first six months of 1920 represented the operation of the Santa Maria Gas and Power Company, while during the last six months of the year operations covered the combined properties acquired from the Midland Counties Public Service Corporation. In preparing the following estimates allowances have been made for the increased cost of gas, certain deferred maintenance and higher state taxes as are now in effect.

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Santa Maria Gas Company—Comparative Operating Statistics: Estimate for Year 1921 Under Present Rates.

Consumers, April, 1921:	
Santa Maria, city	1,007
Balance of Santa Maria district	418
San Luis Obispo, city	1,767
Balance of San Luis Obispo district	536
Total	3,727
Natural gas purchased, M cubic feet	441,370
Gas sales, M cubic feet.	
Domestic	120,000
Street lighting	9,000
Gas engines	7,000
Boiler fuel	60,000
Miscellaneous	121,100
Total	317,100
Revenue.	
Domestic sales	$116,400 00
Industrial and miscellaneous	67,250 00
Total	$183,650 00
Expenses.	
Production	$44,137 00
Transmission	25,000 00
Distribution	22,000 00
General and miscellaneous	31,000 00
Taxes	16,750 00
Depreciation	16,313 00
Total	$155,200 00
Net for return	$28,450 00
Approximate rate base	$707,800 00
Per cent return	4.0

In estimating the total cost of domestic gas service consideration has been given to the investment in the 8-inch pipe line from the Santa Maria oil fields to Betteravia Junction acquired from the Midland company. An analysis of applicant's operations shows that the full capacity of this line is not required in rendering domestic service. Evidence before the Commission indicates this 8-inch line has been maintained for the purpose of selling surplus gas to the steam plant of San Joaquin Light and Power Corporation in accordance with certain terms of the agreement under which the Santa Maria Gas Company purchased the Midland company's gas properties. In view of these facts I do not find it reasonable to charge the full amount of the investment in this line to the cost of domestic service. An adjustment for this item has, therefore, been made.

From the preceding table it is apparent that the present rates fail to yield applicant a reasonable return upon its investment. Applicant has urged very material increases in its existing rates, asking that it be permitted to earn a 10 per cent return, and also that it be given

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special consideration because of the benefits and economies enjoyed by its consumers due to the introduction of natural gas by it. At the time of the introduction of natural gas into San Luis Obispo by applicant's predecessor the $1 per thousand rate was voluntarily established for that district the same as was in effect in Santa Maria notwithstanding the higher cost of service in San Luis Obispo. This present rate has been maintained for a considerable number of years without requests for an increase, even during periods of advancing costs, which would tend to indicate that applicant has until now been satisfied with the present schedules. Applicant is entitled to an increase in its net return, requiring an increase in its rates, but at this time should not be granted a 10 per cent return. The following rates, set forth in the accompanying order, should provide applicant a fair and reasonable return upon its investment.

I submit the following form of order:

ORDER.

Santa Maria Gas Company having applied to the Railroad Commission for authority to increase its rates and charges for gas, public hearings having been held and the matter having been submitted and being now ready for decision:

The Railroad Commission hereby finds as a fact that the rates now charged for gas by Santa Maria Gas Company, in so far as they differ from the rates herein established, are not just and reasonable rates, and that the rates herein established are just and reasonable rates for all classes of gas service rendered by Santa Maria Gas Company.

Basing its order on the foregoing findings of fact and other findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Santa Maria Gas Company be and is hereby authorized to charge and collect the following rates for gas for domestic, commercial, industrial and street lighting service in its several districts as provided for in the accompanying schedules, which supersede all present schedules now in effect. The rates herein established shall be effective for all regular meter readings taken on and after the first day of October, 1921.

Schedule No. 1.

General service.

Applicable to domestic and commercial service for heating, cooking and lighting.

Territory.

Applicable to towns of Santa Maria and Orcutt and consumers along Orcutt road.

Rate.

First	5,000 cubic feet per meter per month	$1 25 per M cubic feet
Next	10,000 cubic feet per meter per month	1 15 per M cubic feet
Next	35,000 cubic feet per meter per month	1 10 per M cubic feet
All over	50,000 cubic feet per meter per month	1 00 per M cubic feet

Minimum charge, $1 per meter per month.

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Special conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under Schedules Nos. 4, 5 or 6 at times when there is insufficient gas to supply the demands of all consumers.

Schedule No. 2.

General service.

Applicable to domestic and commercial service for heating, cooking and lighting.

Territory.

Applicable to the city of San Luis Obispo.

Rate.

First	5,000 cubic feet per meter per month	$1 30 per M cubic feet
Next	10,000 cubic feet per meter per month	1 20 per M cubic feet
Next	35,000 cubic feet per meter per month	1 15 per M cubic feet
All over	50,000 cubic feet per meter per month	1 05 per M cubic feet

Minimum charge, $1 per meter per month.

Special conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under Schedules Nos. 4, 5 or 6 at times wher there is insufficient gas to supply the demands of all consumers.

Schedule No. 3.

General service.

Applicable to domestic and commercial service for heating, cooking and lighting.

Territory.

Applicable to all territory not included under Schedules Nos. 1 and 2.

Rate.

First	5,000 cubic feet per meter per month	$1 35 per M cubic feet
Next	10,000 cubic feet per meter per month	1 25 per M cubic feet
Next	35,000 cubic feet per meter per month	1 15 per M cubic feet
All over	50,000 cubic feet per meter per month	1 05 per M cubic feet

Minimum charge, $1 per meter per month.

Special conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under Schedules Nos. 4, 5 or 6 at times when there is insufficient gas to supply the demands of all consumers.

Schedule No. 4.

Commercial heating and cooking.

Applicable to restaurants, bakeries, butchers, hotels, schools, libraries, churches, clubs, mechanical processes, incubators, etc.

Territory.

Applicable to all districts served.

Rate.

First	20,000 cubic feet per meter per month	$0 75 per M cubic feet
Next	30,000 cubic feet per meter per month	65 per M cubic feet
All over	50,000 cubic feet per meter per month	60 per M cubic feet

Minimum charge, $10 per meter per month.

Special conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under Schedules No. 5 and No. 6, but are subject to the prior use of consumers served under Schedules Nos. 1, 2 and 3 at times when there is insufficient gas to supply the demands of all consumers.

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Schedule No. 5.

Gas engine service.

Applicable to the use of gas in internal combustion engines only.

Territory.

Applicable to all districts served.

Rate.

First 100,000 cubic feet per meter per month_____$0 55 per M cubic feet
All over 100,000 cubic feet per meter per month_____ 50 per M cubic feet

Minimum charge—May to October inclusive, $5 per meter per month; November to April inclusive, $1 per meter per month. For continuous service, $36 per year.

Special conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under Schedule No. 6, but are subject to the prior use of consumers served under Schedules Nos. 1, 2, 3 and 4 at times when there is insufficient gas to supply the demands of all consumers.

Schedule No. 6.

Industrial and boiler fuel service.

Applicable to industrial service on existing mains having a delivery capacity in excess of the present requirements of consumers served under Schedules Nos. 1, 2, 3, 4 and 5; for use in steam boilers, incinerators, kilns, packing houses, creameries, laundries, metal working plants, canneries, etc., in which the gas is not used to heat buildings or to prepare meals and which are equipped to use other fuels, and can be converted to use other fuels on thirty minutes' notice. Consumers receiving service under this schedule are required to maintain adequate supplies of such other fuels.

Territory.

Applicable to all districts served.

Rate.

First 100,000 cubic feet per meter per month_____$0 35 per M cubic feet
All over 100,000 cubic feet per meter per month_____ 30 per M cubic feet

Minimum charge, $15 per meter per month.

Special conditions.

Measurement based upon the units of 1000 cubic feet of gas at 4-ounce pressure above atmosphere. At times of gas shortage consumers of this class will be shut off in favor of consumers served under Schedules Nos. 1, 2, 3, 4 and 5. No obligation is undertaken to serve consumers of this class for any period of time.

Schedule No. 7.

Special contract industrial rate for surplus gas.

Applicable to service of gas for fuel to industrial consumers.

Territory.

Applicable to the city of San Luis Obispo only.

Rate.

Rate per thousand cubic feet, 31 cents. Minimum charge, $31 per meter per month.

Special conditions.

(1) The gas supplied under this schedule is surplus gas only and service hereunder shall be furnished only under the form of contract entitled "Contract for Sale of Surplus Natural Gas" as set forth in the Rates, Rules and Regulations of Santa Maria Gas Company, of which this schedule and said contract are a part, and service hereunder is furnished subject to each and every term and condition of said form of contract.

(2) Service hereunder shall not be commenced unless and until said form of contract has been duly executed by the consumer and approved and accepted by the company.

(3) In addition to the special terms and conditions stated in said form of contract, service hereunder is subject to the rules and regulations of the company in so far as the same are not in conflict therewith.

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(4) Measurement based upon the unit of 1000 cubic feet of gas at 4-ounce pressure above atmosphere. At times of gas shortage consumers of this class will be shut off in favor of consumers served under Schedules Nos. 1, 2, 3, 4 or 5.

Schedule No. 8.

Street lighting service.

Applicable to the service of gas street lamps, including gas supply and maintenance.

Territory.

Applicable to the city of San Luis Obispo.

Rate.

Per lamp per month, $2.75.

Special conditions.

Service to be as provided for by contract for operation of 2-mantle, 300-candle-power "Type D" lamps of the Welsbach Street Lighting Company of America, equipped with 15-inch Alba globes, mounted on iron or concrete standards. Lamps to be cleaned, repaired and operated all night and every night by the Gas Company.

It is hereby further ordered, that Santa Maria Gas Company shall, within thirty days from the date of this order, file with the Railroad Commission the schedules of rates herein authorized together with a complete revision of its rules and regulations governing gas service.

The effective date of this order is September 20, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of August, 1921.

DECISION NO. 9444.

CITY OF ALAMEDA, A MUNICIPAL CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1637.

Decided August 31, 1921.

PASSENGER SERVICE—ABANDONMENT OF.—On a finding that revenue did not meet the cost of operation, the Commission authorized the Southern Pacific to discontinue ferry service and connecting electric trains as follows: leaving Alameda pier for San Francisco at 5.46 a.m., leaving San Francisco for Alameda pier at 1.15 a.m.

William J. Locke, for Complainant.

Geo. E. Williams, for Musicians' Union and Theatrical Federation.

Mrs. H. O. Tenny, for Alameda State Housewives' League, Order of Eastern Star, Order of Rebekahs, Native Daughters of the Golden West, and Pythian Sisters.

E. J. Foulds, for Defendant.

MARTIN, *Commissioner.*

OPINION.

Complainant, city of Alameda, a municipal corporation, complains of defendant, Southern Pacific Company, a corporation, alleging that

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a proposed discontinuance of certain scheduled trips of ferry steamers and connecting interurban trains operated by defendant between San Francisco and Alameda via Alameda pier will compel certain patrons of defendant who are now residents of Alameda to either abandon their present employment in San Francisco or abandon their homes in Alameda; that the proposed discontinuance of service would be unjust, unfair and unwarranted; that the discontinuance of the 1.15 a.m. trip of the ferry steamer from San Francisco with its connecting electric interurban trains will cause great annoyance, embarrassment and discomfiture to residents of Alameda who have heretofore used and now desire to continue the use of such ferry and train service. Defendant filed its answer denying the material allegations of the complaint and alleging that the trips of the ferry steamers and trains proposed to be discontinued are now being operated without any substantial patronage and that the revenue derived is much less than the cost of operation and that a continuance of the operation is unreasonable, wasteful and improvident.

A public hearing was held at San Francisco on July 26, 1921, the matter was duly submitted and is now ready for decision.

The ferry and connecting train service proposed to be discontinued are the schedules connecting with steamer leaving Alameda pier for San Francisco at 5.46 a.m. and the ferry steamer leaving San Francisco at 1.15 a. m. for Alameda pier and connecting trains for Alameda.

Witnesses for complainant testified as to the inconvenience that would be caused patrons using the early trains and boat for San Francisco. Regular patrons comprise persons engaged in the wholesale fruit and produce business in San Francisco, letter carriers and post-office clerks, a proprietor of a livery stable, and persons residing in Alameda and employed in San Francisco in occupations requiring their arrival at an early hour. Occasional patrons appear to be persons who desire to arrive at an early hour in San Francisco for the purpose of making train connections to Marin County and Northwestern Pacific Railroad points, also persons engaged in the shipping industry in various capacities.

The objection of witnesses for complainant to the discontinuance of the 1.15 a.m. boat from San Francisco and its connecting trains was voiced as to regular patrons principally by musicians, theatrical employees and others having employment in San Francisco and residence in Alameda, musicians especially being affected. The occasional or transient patronage accorded this scheduled boat and connecting train is comprised principally of residents of Alameda who may desire to attend theaters, entertainments and other social activities in San Francisco.

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Defendant filed as an exhibit a statement showing results from operation of its ferry and electric suburban lines and the following abstract of totals is self-explanatory:

	12 months ending December 31, 1920	5 months ending May 31, 1921
Total operating revenues	$3,654,095 20	$1,585,180 50
Operating expenses	4,160,980 36	1,671,403 92
Taxes	191,839 99	83,221 98
Total expenses and taxes	$4,352,820 35	$1,754,625 90
Operating loss	*698,725 15	*169,445 40

NOTE.—*Indicates deficit.

Mr. F. L. Burckhalter, assistant general manager of the Southern Pacific Company, was the principal witness presented by defendant. His testimony was to the effect that the necessity for economies prompted defendant company to desire to effect a curtailment of service that greatly exceeded in expense the revenue derived; that comparatively few patrons would be inconvenienced by the curtailment of service; and that a substitute service had been proposed in lieu of the morning trains and ferry schedule proposed to be discontinued whereby a connection would be made via Oakland pier. This witness estimates that the cost of the boat and train service proposed to be abandoned is $2,132 per month, such service returning an approximate monthly revenue of $305 per month, and while the entire expense will not be eliminated by the proposed discontinuance of service, he estimates that at least $1,025 per month will be the direct saving if the service is discontinued.

Traffic checks made at intervals during the period from May 11 to July 23, 1921, inclusive, show the following daily averages:

Passengers from Alameda, arriving at Alameda pier for connection with 5.46 a.m. boat	49
Passengers leaving San Francisco on 1.15 a.m. boat for Alameda pier	39.5

It appears from the evidence that the early morning service from Alameda to San Francisco has been operative on practically the same scheduled time since the road was first opened in the year 1863. The late boat from San Francisco to Alameda was for some time scheduled to leave at 1 a.m. but was changed to the 1.15 a.m. schedule at the time of the Panama-Pacific Exposition in 1915.

I have carefully considered all the evidence and the exhibits presented at the hearing on this proceeding and am of the opinion and hereby find as a fact that the patronage accorded the scheduled boats and connecting trains, which are proposed to be discontinued, has not resulted in revenue sufficient to meet the cost of operation and that the discontinuance of such scheduled ferry boats and connecting trains

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should be permitted under the conditions appearing in the following suggested form of order.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised, and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that defendant, Southern Pacific Company, be and it hereby is authorized to discontinue the operation of the following scheduled ferry service and connecting interurban electric trains:

Leaving Alameda pier for San Francisco at 5.46 a.m.

Leaving San Francisco for Alameda pier at 1.15 a.m.

Provided, however, that defendant, Southern Pacific Company, will be required at the time of discontinuing the train and ferry service now arriving at San Francisco from Alameda pier at 6.05 a.m. to establish interurban train service from Alameda via Oakland pier, such service to originate at a time which will permit of connection being made at Oakland pier with the ferry steamer scheduled to arrive at San Francisco at 6.10 a.m.

It is hereby further ordered, that the discontinuance of service herein authorized shall not be made effective until defendant, Southern Pacific Company, shall have given ten days notice to the traveling public by posting notices on all its steamers assigned to the Alameda pier route, at its ferry terminal in San Francisco, at all stations in Alameda, and by advertisement in newspapers of general circulation in the cities of San Francisco and Alameda.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of August, 1921.

DECISION No. 9445.

CITY OF BERKELEY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1639.

Decided August 31, 1921.

PASSENGER SERVICE—DISCONTINUANCE OF—WHEN JUSTIFIED.—When a marked disparity exists between the revenue derived from and the cost of a service, it should be eliminated, provided there are no special reasons that make the service essential to the public interest.

Frank V. Cornish, for Complainant.
E. J. Foulds, for Defendant.

MARTIN, *Commissioner.*

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OPINION.

City of Berkeley, a municipal corporation, complains of defendant, Southern Pacific Company, and alleges a proposed discontinuance of scheduled ferry service and connecting interurban trains will adversely affect the residents of the city of Berkeley and the Railroad Commission is petitioned to withhold its consent for the establishment of the proposed schedules and to continue by its order the service heretofore established and maintained.

Defendant, Southern Pacific Company, filed its answer denying the material allegations of the complaint and alleging that the service proposed to be discontinued has been operated with but little patronage by the public, is unremunerative, and that the proposed changes in methods of operation incidental to the reduction of service are necessary to accomplish the desired curtailment of expenses.

Public hearings were held at San Francisco on July 26 and August 1, 1921, the matter was duly submitted and is now ready for decision.

The service proposed to be discontinued and the change in method of operation arising therefrom is as follows:

Ferry service from San Francisco via Oakland pier and connecting electric interurban trains to commence at 7 p.m. instead of at 8 p.m. (on a forty-minute headway).

Ferry service on Saturday and Sunday evenings to be the same as on all other evenings of the week.

Passengers from San Francisco for Berkeley via the Ninth and California street lines will be required to take the Ellsworth street line at Oakland pier and transfer at Shellmound Junction for their respective stations, excepting on trains connecting with ferry boats leaving San Francisco daily at 4.20 p.m., 4.40 p.m., 5 p.m., 5.20 p.m., and 5.40 p.m., and on trains connecting with ferry boats arriving at San Francisco at 7.10 a.m., 7.50 a.m., 8.10 a.m., and 8.50 a.m. daily, and 7.30 a.m. daily except Sunday, which trains will operate to and from Oakland pier without change as at present.

Ferry boat leaving San Francisco at 1.20 a.m. daily will make connection with trains for Oakland via Seventh street line, for Berkeley via Shattuck avenue line; the Ellsworth, California and Ninth street—Berkeley—lines not being operated as connecting services.

Ferry boats arriving at San Francisco at 2.05 a.m. daily and 6.10 a.m. daily, except Sunday, will make connection at Oakland pier with electric interurban trains originating only on the Oakland-Seventh street line and on the Berkeley-Shattuck avenue line; no connection being made with the Berkeley-California, Ninth street and Ellsworth lines.

Witnesses for complainant representing the Berkeley Chamber of Commerce, Cragmont Improvement Club, Affiliated Berkeley Clubs, Longfellow Community Association, Northbrae Improvement Club and Berkeley Manufacturers' Association were practically unanimous in voicing their objection to the proposed transfer at Shellmound Junction during other than the morning and evening hours when the heavy commutation travel is being handled. The objections were based on the probability of delay, the inconvenience to passengers by reason of a change of cars being required, the lack of shelter facilities during

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inclement weather, and the possible hazard of accident. Some of the testimony of witnesses for complainant was directed to the change from twenty-minute to forty-minute headway during the evening hours and it was suggested that this difficulty might be overcome if arrangements were made for alternate forty-minute service during the evening hours by the boats and trains of defendant, Southern Pacific Company, and the Key division service of the San Francisco-Oakland Terminal Railways as regards the competing service serving the city of Berkeley. The scope of the present proceeding does not authorize the Commission to direct the installation of the suggested alternate service by the facilities of the two competing lines, although the idea is worthy of consideration by the defendant, Southern Pacific Company, not only as to the Berkeley lines of its electrified system but in general as to other lines of its system. An alternate service by the use of the facilities of the competing companies, not only during the evening hours but in the off-peak hours when the heavy commuting travel is not in evidence might well result in a conservation of operating expense to both the companies without depriving the public and their patrons of a reasonable and satisfactory service. This matter is one that would require considerable study as to the perfection of details requisite to properly develop the service and such arrangements would require the interchange of tickets in that commutation and other tickets should be honored irrespective of the source of issue.

Defendant, Southern Pacific Company, filed as an exhibit a statement showing results from operation of its ferry and electric suburban lines and the following abstract of totals from such exhibit is self explanatory:

	12 months ending December 31, 1920	5 months ending May 31, 1921
Total operating revenues	$3,654,095 20	$1,585,180 50
Operating expenses	4,160,980 36	1,671,403 92
Taxes	191,839 99	83,221 98
Total expenses and taxes	$4,352,820 35	$1,754,625 90
Operating loss	* 698,725 15	* 169,445 40

NOTE.—*Indicates deficit.

Mr. F. L. Burckhalter, assistant general manager of the Southern Pacific Company, was the principal witness presented by defendants. His testimony was to the effect that the necessity for economies prompted defendant to desire to effect a curtailment of service that greatly exceeded in expense the revenue derived from its operation; that certain changes in the method of handling the train service were requisite, among them the proposed transfer in hours of light travel at Shellmound Junction.

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This witness estimated cost of service proposed to be eliminated and revenues derived therefrom to be as follows:

	Monthly cost	Monthly revenue
Elimination of connection in both directions with Ellsworth, California and Ninth street lines with first boat at Oakland pier	$531 00	$113 00
Elimination of connection, in both directions, with Ellsworth California and Ninth street lines with last boat at Oakland pier	728 00	245 00
Elimination of California and Ninth street lines between Shellmound Junction and Oakland pier during off-peak or heavy commutation hours, passengers transferring to and from Ellsworth line trains when originating on or destined to points on California and Ninth street lines	7,000 00	------
Elimination of boat and train mileage by commencement of schedule on forty-minute headway after 7 p.m. trip from San Francisco	4,880 00	2,200 00
Elimination of boat and train mileage by establishment of schedule on forty-minute headway on Saturday and Sunday nights after 7 p.m. trip from San Francisco	8,300 00	4,400 00

The above general proposed changes with other minor adjustments incidental thereto aggregate an estimated monthly cost of $24,000, of which Mr. Burckhalter estimates one-half will be a direct saving in operating expense, or approximately $12,000 per month.

Traffic checks made at intervals during the period from May 11 to July 23, 1921, inclusive, show the following daily average number of passengers carried:

Passengers from Berkeley arriving at Oakland pier to connect with 5.50 a.m. boat for San Francisco:	
Ellsworth line	8.1
California street line	18.1
Ninth street line	9.3
Passengers for Berkeley leaving San Francisco on 1.20 a.m. boat:	
Ellsworth line	24.
California street line	18.1
Ninth street line	16.2
Passengers from Berkeley arriving at Oakland pier at 1.30 a.m. to connect with last boat to San Francisco:	
Ellsworth line	9.3
California street line	6.
Ninth street line	7.9

I have carefully considered all the testimony and exhibits presented in this proceeding and am of the opinion that the defendant, Southern Pacific Company, has justified the necessity for the proposed curtailments of service in that such service has returned revenue which is not comparable with the expense of operations, and that the proposed curtailment of service is reasonable and should be permitted inasmuch as sufficient patronage is not accorded the service to warrant its continuance.

As shown above the evidence indicates that the principal objections of the complainant's witnesses is based on the proposed transfer at

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Shellmound Junction for patrons of the California and Ninth street lines during hours other than those of peak commutation travel, the cars of the Ellsworth line being used to transport passengers between Shellmound Junction and Oakland pier transferring at Shellmound Junction to and from cars of the California and Ninth street lines. The inconvenience anticipated will not prove a material factor owing to the stipulation of the attorney for the defendant, Southern Pacific Company, that on all trips leaving Oakland pier where a consolidation of the Ellsworth, California and Ninth street lines is made to the Ellsworth line train to Shellmound Junction and where the passengers to be transported exceed in number those that can be seated in a single car, the defendant, Southern Pacific Company, proposes to operate additional cars in the Ellsworth line train and to break up the train at Shellmound Junction, cars running thence over the California and Ninth street lines for the accommodation of patrons destined to points on such lines. This stipulation will be made a portion of the order in this proceeding.

I have not lost sight of the protest of the witnesses for complainant who object to the diminution of service during the evening hours and on Saturday and Sunday nights. These witnesses, representing civic organizations and improvement clubs, naturally do not look with favor on any diminution of service to and from their respective portions of the city of Berkeley. It must, however, be apparent to all the parties interested and present at the hearing on this proceeding, as it is to this Commission, that a great disparity exists between the revenues derived from the service proposed to be diminished and the cost of furnishing such service and that, in the interest of economy, service that is not patronized to a point which will approximately meet its direct cost should be eliminated providing there are not special reasons that render the retention vital and essential to the public interest. In the present proceeding I am convinced that no unreasonable curtailment is proposed in the adjustment of train service on week days after the hour of 7 p.m. and on Saturdays and Sundays.

I suggest the following form of order:

ORDER.

Public hearings having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised;

It is hereby ordered, that defendant, Southern Pacific Company, be and the same hereby is authorized to make the following changes in

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its schedules covering the operation of ferry steamers and connecting interurban trains:

1. Ferry service to and from San Francisco via Oakland pier and connecting electric interurban trains to be placed on a forty-minute headway daily, such forty-minute service to commence after 7 p.m.

2. Train operation, connecting with ferry steamers between San Francisco and Berkeley via Oakland pier to be arranged on a basis where passengers using Ninth and California street, Berkeley lines, will be transported between Oakland pier and Shellmound Junction via the trains of the Ellsworth street line excepting on trains connecting with ferry boats leaving San Francisco daily at 4.20 p.m., 4.40 p.m., 5 p.m., 5.20 p.m. and 5.40 p.m. and on trains connecting with ferry boats arriving at San Francisco at 7.10 a.m., 7.50 a.m., 8.10 a.m. and 8.50 a.m. daily and 7.30 a.m. daily, except Sunday, such trains on the Ninth street and California street lines to operate to and from Oakland pier without change as at present; provided, however, that, in accordance with the stipulation of counsel for defendant at the hearing in this proceeding, on all trips leaving Oakland pier where a consolidation of the Ellsworth, California and Ninth street lines is made to the Ellsworth line train to Shellmound Junction and where the passengers to be transported over such lines exceed in number those that can be seated in a single car, defendant, Southern Pacific Company, will be required to operate additional cars sufficient to afford seating capacity for all passengers offering, in the Ellsworth line train and to divert cars at Shellmound Junction running thence over the California and Ninth street lines for the accommodation of passengers destined to points on such lines.

3. Defendant, Southern Pacific Company, is hereby authorized to discontinue electric interurban trains connecting with ferry boat leaving San Francisco at 1.20 a.m. daily and with ferry boats arriving at San Francisco at 2.05 a.m. daily and 6.10 a.m. daily, except Sunday, on Ellsworth, California and Ninth Street-Berkeley lines.

It is hereby further ordered, that discontinuance and rearrangement of service herein authorized shall not be made effective until defendant, Southern Pacific Company, shall have given ten days notice to the traveling public by posting notices on all its steamers assigned to the Oakland pier route, at its ferry terminal in San Francisco, at all stations in Berkeley and Oakland and other communities served by connecting electric interurban trains originating and terminating at Oakland pier, and by advertisement in newspapers of general circulation in the cities of San Francisco, Oakland and Berkeley.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of August, 1921.

DECISION No. 9450.

IN THE MATTER OF THE APPLICATION OF SAN ANTONIO HOME TELEPHONE COMPANY FOR AN ORDER TO INCREASE ITS RATES.

———

Application No. 6059.

Decided August 31, 1921.

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TELEPHONE RATES—DISCRIMINATION.—Discrimination in rates charged stockholders and nonstockholders is not allowed by the Commission. It is held that stockholders must realize their return on investment through dividends.

TELEPHONE RATES—REBATE.—The furnishing of coupon tickets to subscribers by means of which free service is allowed is held in the nature of a rebate and is prohibited by law.

Hugh R. Osburn, for Applicant.

BY THE COMMISSION.

OPINION.

The applicant operates a telephone system between Jolon and King City, between Jolon and Bradley and in the vicinity of Jolon, Monterey County, California. Application is made to increase the rate paid by the stockholders of the company from $8 per year to $15 per year, and to increase the rate paid by nonstockholders from $18 per year to $21 per year. This increase is asked for the purpose of providing sufficient revenue to make necessary repairs to the system, to pay outstanding accrued bills and to obtain funds with which to purchase a new switchboard.

In addition to the above rates, applicant has also in effect a charge of 20 cents on calls between Jolon and King City and between Jolon and Bradley and a charge of 10 cents on local calls from the Jolon exchange.

A public hearing was held upon this application at King City before Examiner Satterwhite.

The system is comprised principally of one grounded line between Jolon and King City, a distance of 17 miles, and one grounded line between Jolon and Bradley, a distance of 23 miles. The company operates an exchange office at Jolon and also a small exchange at a point known as "Glau," which is in the line between Jolon and Bradley. There is a line known as the Bryson line extending from Glau to Pleyto and to other points, and there are a few subscribers on separate short lines connected with the Jolon exchange. There is one

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farmers' line terminating at Jolon, known as the Gorda line. This entire system is connected with the lines of The Pacific Telephone and Telegraph Company through its exchanges at King City and Bradley. The connection is on a farmer line basis only, the applicant paying to The Pacific Telephone and Telegraph Company $3 per year for each station on its system. On March 8, 1921, there were 24 subscribers on the line between Jolon and King City, 22 between Jolon and Glau, 20 between Glau and Bradley, and a total on all lines of 90. Subscribers between Jolon and King City can call King City directly and those between Glau and Jolon can be connected with King City through the Jolon exchange. With the present number of subscribers, the lines are very much overloaded. It is our opinion that the requirements of public service demand that this situation be remedied by the construction of additional lines. The applicant should reduce the number of subscribers per line to 10, unless it can be shown that the conditions on its system are of such a special nature that it is able to render efficient telephone service otherwise.

The company is at present collecting discriminatory rates from its subscribers and from the public in several ways. In the first place, the stockholders in the company pay $8 per year for telephone service while nonstockholders, or so-called renters, pay $18 per year. One rate must be put in effect for stockholders and nonstockholders alike. Stockholders are entitled to some return on their investment, but it must be in the form of dividends declared out of net income.

Another case of discrimination exists in the manner of collecting an "other line" charge. Subscribers of the applicant may call the King City central office through the Jolon central office free and may also call subscribers of the Pacific company's exchange at King City through the Jolon central office free. However, subscribers of the Pacific company, who desire to call subscribers of the applicant through the King City central office and through the Jolon central office are required to pay an "other line" charge of 20 cents plus 5 cents war tax. Through the operation of the farmers' line agreement all subscribers of the applicant are, in effect, subscribers of the Pacific company's exchange at King City. Therefore the collection of an "other line" charge is discriminatory under the present arrangement. We believe that the applicant may be entitled to make a charge for the use of its line by nonsubscribers, but both the subscribers of the applicant and the subscribers of the Pacific company's exchange at King City should be allowed free service to stations on the lines of either company when the calls are placed from such subscribers' own stations. Any subscriber of either company, or any outsider, desiring to place a call from the central office,

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or from a public station of either company to a point on the lines of either company may properly be charged for the service.

Still another irregular practice exists, namely, the furnishing to its subscribers by the applicant of coupon tickets, by the use of which they may obtain free service from the central office of the Pacific company's King City exchange to various stations on the applicant's system. This is in the nature of a rebate and is prohibited by law.

The question of long distance service between points on the system of applicant and points on the Pacific company's system, beyond King City or Bradley, was discussed at the hearing. In view of the size of the applicant's exchange, we have recommended to the applicant a toll circuit be installed between its exchange and the King City exchange, and we have suggested, for the operation of this circuit, that a connecting company agreement be entered into between the applicant and the Pacific company. By means of this agreement, tolls would be collected for all interexchange calls. Applicant has stated, however, that it is not its desire at the present time to construct a new toll line and has given as its opinion that its subscribers would be unwilling to pay for the toll service.

It is claimed that a number of its subscribers do practically all of their business with King City and have frequent use for the telephone. For this reason the cost of telephone service to these subscribers would be greatly increased by establishing toll rates. To offset this increase, we would point out the decreased cost of exchange service. The operation under a connecting company toll agreement would mean the discontinuance of the present rental of $3 per station per month to the Pacific company for farmer line service. However, in view of the applicant's desire to avoid at present the construction of a new toll circuit in addition to the extensive replacements which are contemplated and also in view of the fact that the construction of new circuits is needed to relieve the present overcrowded lines, we are willing to allow the applicant to continue its present practice of allowing its subscribers, when calling from their own stations, to use its lines for toll purposes; and to charge nonsubscribers for the use of its facilities, but only in the manner described in a preceding paragraph.

An inspection of the applicant's property was made by an engineer of the Commission and an inventory was also prepared. The applicant has outstanding stock amounting to $3,450. This amount of money was paid in by the stockholders for the original construction of the system. There has been little change in the plant since its construction in 1905 and 1906, except the addition of new telephone instruments. Applying unit costs used in appraising other plants of similar construction, our engineer estimates that the historical reproduction

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cost of the present system is approximately the sum of $8,500. This figure includes full allowance for all labor and superintendence which must have been required in the construction of the system. Also, overhead costs of engineering, interest during construction and general expense have been estimated and included.

This system was originally built in the years 1905 and 1906. The president and the manager of the company both testified at the hearing that replacements must now be made of instruments, wire, poles and central office equipment. The sum required for this purpose was not named and we understand that no definite estimate has been made as to the extent to which replacement work should be undertaken at the present time. It should be clearly understood that present and future subscribers can not be required to pay more than their share of replacement costs. In the past no provision has been made for depreciation, while at the same time the stockholders, who are also subscribers, have benefited by a discriminatory rate. The stockholders should now be required to finance the replacements which should have been taken care of by the gradual accumulation of a depreciation reserve. Had the present sixty stockholders paid the same rate as others, namely, $18 per year, instead of $8 per year during the fifteen years of the company's operation, the company's income would have been increased by $9,000. From this amount the stockholders would have been entitled to take dividends. Most of the stockholders had an investment of $50, this being 10 shares at $5 each. Assuming yearly dividends at 8 per cent, the total amount thus taken out by stockholders would have been $3,600.

Stockholders have paid assessments at various times. Testimony was received at the hearing showing an assessment to have been levied in 1914 at 60 cents per share; one in 1918 at 25 cents per share, and one in 1921 at 50 cents per share. Therefore, six hundred shares of stock must have been assessed $810. Deducting the above sums, estimated as dividends and assessments, from the estimated additional income of $9,000 leaves the sum of $4,410. The sum may be said to represent the difference between what the service actually cost the stockholders and what it would have cost them had they paid the same rate as the nonstockholders. If it is a fact that there have been an average of more than sixty stockholders, or if the assessments levied were not collected in full, then our estimate of $4,410 is too low and the stockholders have benefited by an amount even greater. It is, therefore, just that the stockholders should now be required to furnish the replacements to those portions of the plant which have become depreciated.

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In regard to operating costs the company's manager, Mr. Merritt, submitted the following:

Operating revenue, Jan. 1, 1920, to Dec. 31, 1920	$989 50
Operating expenses, Jan. 1, 1920, to Dec. 31, 1920	1,103 19

Our engineer estimated that the future annual revenue under the present rates would be, if all accounts were collected, $1,202, and the future annual expense would be $1,223. Allowing as expense a depreciation annuity of $382 gives a total operating expense of $1,605. This would result in a deficit of $403.

It is estimated that the rates hereinafter provided will produce a total revenue of $2,090. The net income, which, it is estimated, will be derived from this, will provide a return of 5.7 per cent on $8,500 and 14 per cent on $3,450, the original cost.

ORDER.

San Antonio Home Telephone Company, having applied for an order to increase its telephone rates in Jolon and vicinity, the matter having been heard and submitted:

It is hereby found, that the rates heretofore charged for telephone service by said applicant are unjust, unreasonable and discriminatory, and that the rates hereinafter provided are just, reasonable and nondiscriminatory.

Basing its conclusions herein upon said finding and upon the facts set forth in the opinion preceding this order;

It is hereby ordered, by the Railroad Commission, that said applicant be and it is hereby authorized to file with the Railroad Commission, within thirty days from the date of this order, and thereafter so long as the present manner of operation on a farmer line basis is continued, or until otherwise ordered, to charge and collect rates in accordance with the following schedule:

Exchange party line service, wall telephone, per year	$21 00
Farmer line service, per year	6 00
Toll service, local calls, each	10
Toll service between King City and Jolon, or between Bradley and Jolon, each call	20

The above charges for toll service may be made only in those cases which are specifically stated in the opinion preceding this order.

Dated at San Francisco, California, this thirty-first day of August, 1921.

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DECISION No. 9453.

IN THE MATTER OF THE APPLICATION OF THE SONOMA VALLEY WATER, LIGHT AND POWER COMPANY FOR PERMISSION TO PURCHASE THE SONOMA CITY WATER WORKS AND THE SONOMA VISTA WATER COMPANY, AND PERMISSION TO ISSUE ONE HUNDRED THOUSAND DOLLARS PREFERRED STOCK, SAID STOCK TO HAVE PREFERENCE BOTH AS TO ASSETS AND EARNINGS, AND TO OPERATE THE COMBINED PROPERTIES AS ONE, AND TO EXTEND AND CONSOLIDATE THE DISTRIBUTING SYSTEMS OF THE THREE PROPERTIES AND TO PUT A CONCRETE BOTTOM IN THE RESERVOIR OF THE APPLICANT.

Supplemental Application No. 6637.

Decided August 31, 1921.

W. Chester, for Sonoma Valley Water, Light and Power Company.
R. E. Child, for W. W. Kraner, Incorporated.

LOVELAND, *Commissioner*.

FIRST SUPPLEMENTAL OPINION.

On July 2, 1921, the Railroad Commission made an order in the above entitled matter, declaring that it will not authorize Sonoma Valley Water, Light and Power Company to issue $260,000 face value of bonds until the company has secured in cash at least $100,000 from its present or future stockholders.

On August 23, Sonoma Valley Water, Light and Power Company filed a supplemental application in the above entitled matter for permission to issue $100,000 of 8 per cent cumulative preferred stock. From the testimony of W. Chester, president of Sonoma Valley Water, Light and Power Company, it appears that the company has modified its plans since the original application was heard and submitted. At this time, the company does not intend to issue any bonds nor acquire any nonoperative properties, nor construct the dam and reservoir to which reference is made in the Commission's decision of July 2. The company now intends to acquire only the operative properties of the Sonoma City Water Works, a partnership whose members are Louisa V. de Emparan and Marie V. de Cutter, and the operative properties of the Sonoma Vista Water Company. Arrangements are also being made to secure water from the O'Brien ranch and continue in effect an option to acquire the ranch.

The testimony shows that if the properties which the Sonoma Valley Water, Light and Power Company intends to acquire are consolidated with those now owned by the company, the company should be in a position to give greatly improved service and will have adequate water supply to meet the domestic needs of the consumers now connected with the various systems. It may be that some water will be available for sale for irrigation use.

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Sonoma Valley Water, Light and Power Company has an authorized stock issue of $100,000, all of which is outstanding. Substantially all of the stock is owned by W. Chester, president of the company. The property which the company now owns is reported to consist of 304.5 acres of land located about one mile west of El Verano, a town lot in Sonoma, two franchises—one from the city of Sonoma and the other from the county of Sonoma—two small intake dams on Carriger Creek, one-half mile of 8-inch casing and one-half mile of 4-inch wood stave pipe leading to the storage reservoir, a 10,000,000-gallon stone and concrete reservoir for storage purposes, one-half mile of 8-inch casing and three and one-half miles of 8-inch wood stave pipe leading into and through the town of Sonoma, three miles of 4-inch wood stave pipe, one mile of 2-inch cast-iron pipe, 300 feet of other cast-iron pipe, together with connections and laterals for about 175 consumers. The testimony and record shows that the water plant as a whole is in a poor state of repair and operating condition. The reservoir can not be used in its present condition, practically no service is rendered in the town of Sonoma and the company, instead of serving 175 consumers, has but 75, and during the past few years has experienced and is at present experiencing considerable trouble in giving proper service to these. Considering the service conditions of the properties of Sonoma Valley Water, Light and Power Company, the amount of money that must be expended for the improvement of the properties and other facts before the Commission, I believe that the amount of stock now outstanding is excessive. I am of the opinion that $50,000 of the outstanding stock should be turned back into the company's treasury and in no manner disposed of except as hereafter authorized by the Commission.

W. Chester reported that consideration is being given to the organization of a new company and have such company acquire the properties of the Sonoma Valley Water, Light and Power Company and issue common stock in payment for the properties and issue and sell preferred stock to secure new capital. If such a step is taken, it will be necessary for the new company to file with the Commission a formal application for permission to issue stock and acquire properties. The owners of the properties which the new company intends to acquire must also ask permission to sell their properties to the new company. The organization of a new company may simplify the readjustment of the capitalization of the properties now owned by Sonoma Valley Water, Light and Power Company. At this time, the only company before the Commission for permission to issue preferred stock is the Sonoma Valley Water, Light and Power Company, and the authority herein granted will necessarily be confined to that company.

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The Sonoma Valley Water, Light and Power Company asks permission to use the proceeds obtained from the sale of its stock for the following purposes:

To pay indebtedness	$10,000 00
To put a concrete bottom in reservoir of Sonoma Valley Water, Light and Power Company	8,000 00
To purchase the operative properties of Sonoma City Water Works	30,000 00
To purchase the properties of Sonoma Vista Water Company	10,650 00
To expend for extensions, betterments, meters and other improvements	21,350 00
Total	$80,000 00

The order herein will provide that no proceeds from the sale of the stock shall be expended for the above purposes except as hereafter authorized by the Commission. An order authorizing the disbursement of the proceeds will be made as soon as the Commission is satisfied that enough stock can be sold to assure the consummation of the plans of the company as outlined in the supplemental application. The transfer of the properties will also be covered in a supplemental order. There should be filed forthwith a description of the operative properties of the Sonoma City Water Works and also a description of the properties of the Sonoma Vista Water Company.

Sonoma Valley Water, Light and Power Company asks permission to sell 8 per cent cumulative preferred stock at $80 net per share. It has made no final arrangements for the sale of stock, but it appears from the record that a firm is willing to act as the company's agent to sell the stock. The firm expects a 20 per cent commission, assuming that it can sell the stock at par. I am willing to allow the payment of such a commission only because of the unusual conditions under which the properties have been operated. It is expected, however, and the order herein will so provide, that the agent must pay all expenses incident to the sale of stock, such as the cost of advertising, his traveling expenses, printing prospectuses, etc. The stock must be sold for not less than $80 net to the company. If the company's agent is not able to sell the stock for par, he may be paid only such commission as amounts to the difference between 80 and the selling price of the stock. Should it be possible for the agent to sell the stock above par, the commission which may be paid to the agent will be limited to 20 per cent of the par value of the stock. The payments of the agent's commission shall be proportional to the amount of money actually paid on any stock subscription. All moneys not allowed for the purpose of paying commissions shall be deposited in a bank or banks and not expended for any purposes except as may hereafter be permitted by the Commission. If the company is unable to sell enough stock

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to go forward with its plans, as outlined in the supplemental application filed in this proceeding, the money deposited in a bank or banks must be returned to the purchasers of the stock.

I herewith submit the following form of order:

FIRST SUPPLEMENTAL ORDER.

Sonoma Valley Water, Light and Power Company having applied to the Railroad Commission for permission to issue $100,000 of 8 per cent cumulative preferred stock and to acquire properties, and the owners of the properties which the company intends to acquire having asked permission to sell such properties, a public hearing having been held and the Commission being of the opinion that an order should be made at this time permitting Sonoma Valley Water, Light and Power Company to issue and sell 8 per cent cumulative preferred stock subject to the conditions of this order;

It is hereby ordered, that Sonoma Valley Water, Light and Power Company be and it is hereby authorized to issue not exceeding $100,000 of its 8 per cent cumulative preferred stock.

The authority herein granted is subject to the following conditions:

1. The authority herein granted shall not become effective until the present holders of stock of the Sonoma Valley Water, Light and Power Company have turned back into the treasury of that company $50,000 of the outstanding stock.

2. The stock herein authorized to be issued shall be sold by Sonoma Valley Water, Light and Power Company for cash, at not less than $80 net to the company. Of the proceeds realized from the sale of the stock, the company may pay as a commission or brokerage fee an amount equal to 20 per cent of the par value of the stock, assuming that the stock is sold by the agent at par or more. If the stock is sold by the agent for less than par, the commission or brokerage fee which may be paid must be limited to the difference between the selling price of the stock and 80. The payment of the commission or brokerage fee shall be proportional to the amount of cash actually paid by the stock subscribers. All proceeds other than the amount which is herein permitted to be paid as a commission or a brokerage fee must be deposited by the Sonoma Valley Water, Light and Power Company in a bank or banks and not expended for any purpose other than that hereafter authorized by the Railroad Commission. All expenses, such as the cost of advertising, traveling expenses, printing prospectuses, etc., incident to the sale of the stock must be paid by the agent of the company out of the commission or brokerage fee herein permitted to be paid.

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3. Sonoma Valley Water, Light and Power Company shall file with the Commission the name and postoffice address of each stock subscriber, together with the amount of stock subscribed, price at which the subscriber has agreed to purchase the stock and the payments made by each subscriber, such information to supplement the reports called for by the Commission's General Order No. 24.

4. Sonoma Valley Water, Light and Power Company shall file with the Commission a copy of its prospectus, if any is printed and distributed, a copy of its stock subscription agreement and a copy of each and every agreement under the terms of which any individual or individuals are employed to act as agent or salesman for the company to sell the stock herein authorized. The stock subscription agreement shall contain a provision to the effect that the company agrees to return to the subscriber, in the event not enough stock can be sold to carry out the company's plans, the amount paid by the stock subscriber less the commission or brokerage fees allowed by the Railroad Commission, and less such other expenses as the Railroad Commission may authorize the company to pay.

5. On each stock subscription agreement and on any prospectus distributed by Sonoma Valley Water, Light and Power Company shall appear this language:

> While the Railroad Commission has authorized the issue and sale of this stock, its order is permissive only and does not constitute a recommendation or endorsement of the stock.

6. Sonoma Valley Water, Light and Power Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 15, 1921.

The foregoing first supplemental opinion and first supplemental order are hereby approved and ordered filed as the first supplemental opinion and first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of August, 1921.

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DECISION No. 9454.

IN THE MATTER OF THE APPLICATION OF JAMES A. MURRAY, WILLIAM G. HENSHAW AND ED FLETCHER, COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF THE CUYAMACA WATER COMPANY, FOR AN ORDER AUTHORIZING AND ESTABLISHING A SURCHARGE TO PAY FOR THE COST OF OPERATION OF PUMPING FROM UNDERGROUND RESERVOIRS.

Application No. 6767.

Decided September 1, 1921.

Charles C. Crouch, for Applicant.
Ed Fletcher, for William G. Henshaw and Ed Fletcher.
W. C. Earle, for City of San Diego.
Jesse George and *Clarence S. Preston*, for J. C. Brewer et al, and Robert Ross et al., Protestants.
George Russell and *O. W. Cotton*, for Fairmount Water Company.
Arthur T. French, for City of East San Diego.
J. H. Halley, for Lemon Grove Mutual Water Company.
J. N. C. Warren, for Helix Mutual Water Company.
John T. Scott, for La Mesa Mutual Water Company.
W. W. Clary, for Railroad Commission of California.

MARTIN, *Commissioner*.

OPINION.

Applicants herein ask, in effect, permission to collect a surcharge of two and one-half (2½) cents per one hundred cubic feet for all water delivered to their consumers, alleging that it is necessary to conserve the stored water by pumping, and that the cost of this pumping is not provided for in the rates as now fixed.

A public hearing was held in this matter at San Diego, of which hearing all of applicant's consumers were notified and given an opportunity to appear and be heard.

Applicant's principal source of supply is the San Diego River and its tributaries, the summer flow of which is augmented by storing storm water in the Cuyamaca and Murray reservoirs. The supply is further increased, when necessary, by pumping from wells sunk in the San Diego River bed at the El Monte pumping station, located near Lakeside. It is also possible to pump water from the Murray reservoir to a higher elevation with the La Mesa booster plant. These two plants are operated only when there is a shortage of water in the Cuyamaca reservoir. There are several other small pumping plants, which are used every year to pump the water to certain areas not reached by gravity. The service area is divided into three districts: the flume service, which can be supplied from Cuyamaca reservoir or the El Monte pump; the high service, which can be supplied from Cuyamaca reservoir, the El Monte pump or the La Mesa booster; the low service, which can be supplied from the higher sources, if necessary, but regularly supplied wholly from the Murray reservoir. For

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a more detailed description of applicant's system, its history and other data relating to its operation, reference is made to Decision No. 8145, *In the matter of the application of James A. Murray, Wm. G. Henshaw and Ed Fletcher, doing business under the firm name and style of the Cuyamaca Water Company, for an order authorizing and permitting an increase in the rentals, tolls and charges for water furnished by them and service rendered by them in furnishing water in the County of San Diego*, Application No. 4515; *In the matter of the application of James A. Murray, Wm. G. Henshaw and Ed Fletcher, doing business under the firm name and style of the Cuyamaca Water Company, for an order authorizing and permitting them to place a surcharge upon their present rentals, tolls and charges for water furnished by them, such surcharge being necessary on account of the increased cost of operation*, Application No. 4670; *Robert Ross et al*, vs. *James A. Murray et al.*, Case No. 1272, decided September 24, 1920.

The capacity of Cuyamaca reservoir when full is 11,595 acre feet. On June 1, 1921, there were only 3651 acre feet of water stored in Cuyamaca reservoir, which is not a sufficient amount to supply the flume service and the high service throughout the year. Applicants introduced evidence to show that the deficiency should be overcome by operating the El Monte pumping plant for a period of five months in 1921, at a total cost of approximately $19,200. Commission's engineer, Mr. M. E. Ready, submitted a report in which he estimated that by exhausting the storage in Cuyamaca reservoir the cost of pumping at the El Monte plant would be reduced to about $7,326.

Evidence was also introduced to show that the La Mesa booster pump can be operated at a much lower cost per acre foot than the El Monte plant. It was also shown that more than one-half of the Lemon Grove consumers, who in previous years have been supplied from the high service, can be supplied this year by gravity from Murray reservoir.

It appears that the average pumping expense for the last five years has been $2,072, exclusive of the operation of the El Monte plant. However, this plant was operated only during the season of 1919 within this period, and then for a total of only 40 days, at an operating cost of $3,686. In that year the company was permitted to collect a surcharge, the total of which was much larger than the actual operating expense.

In the schedule of rates established in Decision No. 8145, *supra*, this Commission recognized the necessity of pumping operations on this system. It recognized the fact that past experience has shown that the operation of the El Monte plant was not necessary each year. However, there was included in the rates there established, and still in effect, a sum which was anticipated to be ample to cover the whole cost

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of pumping over a series of years—an excess accumulating in a year of copious natural supply of water, offsetting a deficit in years of meager supply. It was not conclusively shown that this provision in the present rates is inadequate to meet the purpose for which it was intended.

After carefully considering all the evidence it would appear that the applicants can operate during the season of 1921 by drawing a portion of the water from Cuyamaca reservoir, supply the deficiency by pumping from Murray reservoir and at El Monte, and give adequate service to their consumers. It would appear that the cost of this necessary function is properly provided for in the rates already in effect, and the application should therefore be denied.

The following form of order is submitted:

ORDER.

James A. Murray, William G. Henshaw and Ed Fletcher, copartners, doing business under the firm name and style of the Cuyamaca Water Company, having applied for an order authorizing and establishing a surcharge to pay for the cost of operation of pumping from underground reservoirs, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact, that the rates at present in effect are ample to cover the necessary costs of pumping on this system when considered over a period of years and that the necessity of adding a surcharge at this time to such established rates does not exist.

And basing its order upon the foregoing findings of fact and upon the statements of fact contained in the opinion preceding this order;

It is hereby ordered, that the above application be and it is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of September, 1921.

DECISION No. 9455.

IN THE MATTER OF THE APPLICATION OF COLONY HOLDING CORPORATION FOR AUTHORIZATION TO MAINTAIN AND OPERATE TELEPHONE LINES (NO EXCHANGE) WITHIN THE BOUNDARIES OF ATASCADERO, CALIFORNIA.

Application No. 6362.

Decided September 3, 1921.

TELEPHONE CERTIFICATE—FARMER LINE.—Application to operate a privately owned telephone system as a farmer line denied, the Commission holding that farmers' lines should be owned by the subscribers.

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SERVICE—RESPONSIBILITY FOR.—A certificate will not be issued when the applicant is not willing to assume full responsibility for service required under the Public Utilities Act.

BY THE COMMISSION.

OPINION.

Colony Holding Corporation, applicant in this proceeding, is engaged in the business of subdividing and selling real estate, the property handled being known as Atascadero. The applicant has constructed telephone lines on this property, connecting the same with the exchange of The Pacific Telephone and Telegraph Company at Atascadero, for its own use and for the use of the colonists who have purchased land.

It having been called to the attention of the applicant that it was collecting rates from its patrons for telephone service without legal authority, applicant thereafter filed with the Commission its request for authorization to operate and maintain a farmer line system in Atascadero, California, outside of the territory served by The Pacific Telephone and Telegraph Company and to file and make effective a certain schedule of rates.

The territory served by The Pacific Company, referred to above, is described by applicant as being within the three-quarter mile radius from the exchange central office.

A public hearing was held at Atascadero by Examiner Satterwhite.

Evidence was presented by The Pacific Telephone and Telegraph Company showing that it is prepared to serve and is serving the territory, to serve which the applicant now seeks authorization.

Testimony was given by Mr. Seares, vice president and general manager for the applicant, to the effect that The Pacific Company is now serving territory beyond its three-quarter mile exchange area, namely, the subdivision known as Eaglet on the south and the North Highway district on the north.

The subscribers of the applicant are, in effect, subscribers of The Pacific Company, since their telephone stations are directly connected with The Pacific Company's exchange.

The testimony showed that the applicant did not desire to assume full accountability to the public for service such as would be required of it, should it be authorized by the Commission to charge and collect rates.

In view of the fact that The Pacific Company is now serving and is prepared to extend further service in this territory it is our opinion that public convenience and necessity do not require that this application be granted.

The ownership and maintenance of the farmer lines, by means of which the applicant's subscribers are connected with The Pacific Company's exchange, should be in the hands of the subscribers themselves. The applicant should discontinue the practice of selling telephone

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service and withdraw entirely from responsibility to the public as a public utility.

ORDER.

Application having been filed with the Railroad Commission by Colony Holding Corporation for authorization to maintain and operate telephone lines within the boundaries of Atascadero, California, a public hearing having been held and it appearing that the territory within which Colony Holding Corporation asks for said authorization is now served by The Pacific Telephone and Telegraph Company;

It is hereby ordered, that the application herein be and it is hereby denied.

Dated at San Francisco, California, this third day of September, 1921.

DECISION No. 9456.

IN THE MATTER OF THE APPLICATION OF DELTA TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO INCREASE RATES AND TO MAKE CERTAIN CHANGES OF RULES AND REGULATIONS RELATING THERETO.

Application No. 5534.

Decided September 3, 1921.

Albert A. Rosenshine, for Applicant.

BY THE COMMISSION.

OPINION.

The Delta Telephone and Telegraph Company, in Application No. 5534, asks the Commission's authority to increase its rates for certain classes of telephone service and to change some of its rules and regulations, alleging that it is not making a fair return upon its investment and that its business must be placed upon a dividend paying basis in order to attract new capital with which to make necessary extensions and betterments to its plant.

Public hearings upon the application were held by Examiner Westover at Sacramento.

Territory Served and Effect on Rates.

The company furnishes telephone service to the district along the Sacramento River beginning about eight miles south of Sacramento and extending in a general southerly direction for a distance of twenty-eight miles. Branch lines have been extended from the main leads to give service to residents on the many islands in this district.

The following towns or communities are served by the company's own lines:

Clarksburg	Hood	Ryde
Courtland	Isleton	Vorden
Freeport	Paintersville	Walnut Grove

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Long distance connections are made with the Rio Vista Telephone and Telegraph Company at Rio Vista and with The Pacific Telephone and Telegraph Company's lines at Sacramento.

The territory served by applicant consists principally of land reclaimed from the marshes along the Sacramento and San Joaquin rivers. It is strictly a farming community with no centers which can properly be called towns. Practically all highways are built on top of the levees and the company's lines usually parallel the latter so that they will be accessible from them.

The above description of this district is given because it has an important bearing upon the investment which the company has in plant and upon its operating expenses, consequently upon the rates for service. The fixed capital per station is unusually high on account of the considerable amount of submarine cable, the almost total absence of urban lines and the greater length of lines because they are built along levees instead of along straight highways. The operating expenses are increased by these same factors. In addition to these, the securing and retaining of operators increases this expense. The local residents are wealthy and need not work for the telephone company. City operators will not stay in this isolated district for the usual scale of wages and boarding and lodging can not be secured by them in Courtland, the company's headquarters. To overcome the latter difficulties, the company pays a higher wage scale to its operators and maintains as part of its operating system a boarding and lodging establishment.

Operating Methods.

A brief description of the company's methods of charging for service and of operating its system will assist in understanding the arguments and requests of applicant and the recommendations of our engineers. As stated above, practically all lines of the company furnish suburban service and, as a result, have from five to seventeen subscribers' stations connected with each circuit. Each subscriber on a particular line may communicate with all others on the same line without paying a toll charge. For all calls from stations on one line to stations on another line, subscribers pay a ten-cent toll for three minutes and five cents for each additional minute. These calls are handled in the same manner as ordinary "long distance" calls. As a result of this method of operating, every local call which is completed through the switchboards of the company is manually recorded, giving calling number, called number, and duration of the conversation.

The entire system of the company is operated as one exchange, although there is a central office at Courtland and one at Isleton. The long distance rates are the same to or from all stations on the com-

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pany's system regardless of their distance from the connecting point with other companies' systems.

Valuation, Revenues and Expenses.

In addition to the statement of revenue and expenses for the years 1918 and 1919 and the estimated revenue and expenses for the year 1920 which were filed with the application, applicant submitted at the last hearing an amendment to the proposed rate schedules and a graph showing the various sources and amounts of revenue for the past year. Subsequent to the hearing it filed a brief setting forth various data concerning the estimated cost of doing certain work recommended by our engineers, which would increase the rate base, and giving its views on the best method of increasing the gross revenue to the amount required to net a fair return upon the investment.

Mr. A. N. Johns, one of the Commission's engineers, made an inventory and appraisal of the company's property as of September 1, 1920. The inventory was made in company with a company representative. The appraisal, with the net additions to plant to May 31, 1921, was submitted at the last hearing and amounted to $118,940. The company did not make an appraisal of the plant and accepted our engineer's figures. The company, however, must spend approximately $1,740 for additions to plant in order to comply with certain requirements which we impose in the order. It is our opinion, therefore, that $120,500 is a fair valuation of the property for rate making purposes.

The revenue and expenses of the company for the year ending May 31, 1921, were carefully analyzed by Mr. Johns. The revenue amounted to $40,093.60, and the expenses, including a reasonable sum set aside by the company for depreciation, amounted to $33,021.14, leaving a net income, before interest deductions, of $7,072.46 (compensation for loss during federal control, amounting to $4,193.52, was not included in above figures).

Mr. Johns submitted an estimate of 10 per cent increase in the number of stations and 9 per cent increase in volume of toll business during the coming year, on which basis the company might reasonably expect a gross revenue of $42,330. His estimate of expenses for the same period amounts to $35,526, including $5,100 for the depreciation reserve fund. The net income before interest deductions, therefore, would be approximately $6,800. It is evident from the above that the company is entitled to additional revenue in order that it may make a fair return upon its investment.

Under the rates which we authorize the company may reasonably expect a net return which will attract new capital with which to make such extensions and betterments to plant as are required.

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Rates and Service.

Applicant's present exchange rates are as follows:

(*a*) Flat monthly rental of 50 cents per station, with
(*b*) Free calls to stations on same line, with
*(*c*) A 10-cent charge for 3 minutes and 5 cents for each additional minute or fraction thereof on all calls from one line to another on the company's system.

*This rate applies to subscribers and stockholders only. Nonsubscribers pay 20 cents for the initial period and the usual overtime rate.

Applicant's present toll rates:

These are identical with those in the order under the caption "Toll Telephone and Telegraph Rates" except those between Rio Vista and stations on applicant's system. Between these points, nonsubscribers pay 10 cents additional for the initial 3-minute period.

The only guaranteed amount of revenue from each subscriber's station under present rates is the 50-cent flat rate charge. Applicant now requests that, in addition to this amount, the Commission shall require a $2.50 per month per station guarantee for the local 10-cent service. It suggests a reduction of 5 cents in its toll rates to compensate for the increase in revenue derived from this source.

As already noted, applicant must receive additional revenue and the problem now before us is to find the most equitable means of securing it. We are of the opinion that it would be unjust to increase the burden on the exchange service by reducing the toll rate.

We therefore deny the request for the slight reduction in toll rates at the present time and provide for a very substantial reduction in applicant's proposed exchange rates.

There are two methods of securing a guaranteed amount of revenue for exchange service. One is to charge a flat rate for unlimited service and the other is to give measured service with a guaranteed minimum revenue. The company opposes the former method, alleging that its present facilities would be inadequate to handle the increased traffic. On the other hand, measured service on a magneto system is very expensive from an operating point of view and is rarely furnished.

After careful consideration of the testimony offered by applicant and the data submitted by Mr. Johns, it is our opinion that it would be unwise to order unlimited exchange service at the present time. In lieu thereof, however, applicant should furnish the class of exchange service and charge the rates set forth in the order. This schedule permits the subscriber each month to make fifteen calls, each of three minutes duration, free of charge to any station on applicant's system, exclusive of calls for stations on his own line. Overtime should be charged on these fifteen messages at the usual overtime rate and all messages in excess of fifteen should be paid for at the usual rate. For

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this local service, the subscriber must pay $1.75 per month per station under the rates authorized.

The present rate schedule of applicant requires nonsubscribers to pay 100 per cent more than subscribers or stockholders for the initial period of three minutes for calls on the company's own system. This is obviously unfair and must be discontinued.

The company at present charges the same rate for business and residence service and makes no additional charge for a desk telephone. It requests permission to make an additional charge of 25 cents per month for the latter, continuing the present practice regarding business and residence rates. While an additional charge for desk telephones is the general practice of telephone companies, we are of the opinion that the present system of rates should be disturbed as little as possible and yet give the company a fair return upon its investment, until such time as data will be available to analyze and revise the entire rate system. We therefore deny the request to make additional charge for desk telephones at present. Applicant proposes instituting on its "long distance" service a report charge, an appointment call charge and a messenger call charge. These charges are taken from the so-called Burleson schedule. The company, however, objects to computing rates on the Burleson basis. We are of the opinion that the long distance rates and charges should remain as at present except that the rates to Rio Vista shall be the same to nonsubscribers as those to subscribers and stockholders. We base our conclusion on the same reasoning as set forth above. These rates are shown in the order.

There was practically no complaint at the hearings against the service furnished by applicant. Our engineer, however, called attention to the fact that a number of lines had more than ten stations per circuit and recommended that all lines be reduced to a maximum of ten stations. Applicant submitted an estimated cost of about $14,000 for doing the work necessary to make this change. In view of the fact that the volume of traffic on these lines is below normal, due to the measured service, and in view of the fact that the cost of labor and material is still very high, it is our opinion that the recommendations of our engineer on this matter should be applied at this time only to the present lines No. 15 and No. 28. The company should restrict all lines in the future to ten stations each and make every effort to reduce other existing lines to the same number of stations. We make the above exception to reducing the number of stations to ten per line at the present time on account of the unusual conditions existing in this system, and it may not be taken as a precedent in future cases before the Commission.

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Our engineer further recommends that the territory served by the applicant should be divided into two distinct exchange areas, to be served from Isleton and Courtland exchanges.

Mr. Johns' report containing above recommendations, and that following relating to records, was filed in evidence at the last hearing. It was the result of a detailed study of the situation, with the purpose of improving service conditions and effecting economies in operation without requiring large capital expenditure at this time. The company at the hearing reserved the privilege of discussing the report in a brief to be filed later. In its brief, now on file, it acquiesces in his recommendations, except those relating to the amount of the guarantee, the service to be rendered for the guarantee, and to having the present toll rates remain effective.

Records to Be Kept by Company.

As shown above, the methods of charging for both toll and local service by applicant differ from those in use in most exchanges. The company urges that the peculiar conditions present in this territory make these methods necessary. We have not sufficient data available to decide whether or not this position is correct, therefore we provide that applicant shall keep the following information for a period of at least one year, sending to the Commission a monthly report of same:

1. The total number of messages and the average holding time of messages from:

(*a*) Isleton to Courtland.
(*b*) Isleton to Rio Vista.
(*c*) Isleton to Sacramento or other outside points.
(*d*) Courtland to Isleton.
(*e*) Courtland to Rio Vista.
(*f*) Courtland to Sacramento or other outside points.
(*g*) Rio Vista to Isleton.
(*h*) Rio Vista to Courtland.
(*i*) Rio Vista to Sacramento or other outside points.
(*j*) Sacramento to Courtland.
(*k*) Sacramento to Isleton.
(*l*) Sacramento to Rio Vista.

2. The cost of work charged to maintenance which was made necessary on account of dividing the system into two exchanges and reducing the lines to ten stations each.

Rules and Regulations.

Applicant filed proposed rules and regulations in accordance with the Commission's Decision No. 2879, Case No. 683, and information affecting rates and service. Inasmuch as these were designed to cover the company's proposed rates and not those authorized by the Commission, we recommend that applicant shall file within thirty (30) days from the date of this order a revised set of rules and regulations.

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ORDER.

Delta Telephone and Telegraph Company having filed with this Commission its application for an increase in rates for telephone service and for changes in rules and regulations, public hearings having been held, the matter having been submitted; and the Commission, basing its conclusions on the foregoing opinion, finding as a fact that the rates and rules and regulations authorized and the classes of service prescribed in this order are just and reasonable;

It is hereby ordered, that applicant is hereby authorized to file with the Commission within thirty (30) days from the date of this order a schedule of rates, services and rules and regulations as outlined in the foregoing opinion and ordered to offer the classes of service as shown herein, which rates, rules and regulations upon approval, may be made effective:

Exchange Service Rates.

1. The monthly rental shall be $1.75 for business or residence service, wall or desk telephone.

2. The monthly rental shall entitle the subscriber to the following:

(*a*) Free calls, unlimited, between stations on the same line.

(*b*) Fifteen messages, each of three minutes or less duration, to any of the company's subscribers not on the same line, all excesses of the three-minute limit to be paid for at the overtime rate shown in (*c*) below.

(*c*) All messages to company's stations in excess of the fifteen allowed in Paragraph (*b*) above, except as provided in Paragraph (*a*) above, shall be paid for at the rate of 10 cents for the first three minutes or fraction thereof and five cents for each additional minute or fraction thereof.

Toll Telephone and Telegraph Rates.

1. The toll telephone rates between Sacramento and all stations on applicant's system shall be 30 cents for the initial period of 3 minutes and 10 cents for each additional minute or fraction thereof. The toll telegraph rates shall be 30 cents for a ten-word or less day message, and 2 cents for each additional word over ten.

2. The toll telephone rates between Rio Vista and all stations on applicant's system shall be 15 cents for an initial period of 3 minutes and 5 cents for each additional minute or fraction thereof. The toll telegraph rates shall be 35 cents for a ten-word or less day message and 2 cents for each additional word over ten.

3. The toll telephone rates between Rio Vista and Sacramento shall be 35 cents for the first three minutes and 10 cents for each additional minute or fraction thereof. The toll telegraph rates shall be 35 cents for a ten-word or less day message, and 2 cents for each additional word over ten.

4. All rates are for particular person service.

It is hereby further ordered, that applicant shall divide its system into two exchange areas, the dividing line to follow the township line between townships No. 4 and No. 5, ranges 2 and 3 east, thence due east to the Sacramento River, thence following the river north and east to a point approximately one mile below Walnut Grove, thence in a southeasterly direction to point of intersection of above township line extended, thence due east. All subscribers south of this exchange line shall be served from the Isleton central office and all stations north of the line shall be served from the Courtland central office. This work shall be completed within ninety (90) days from the date of this order.

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It is hereby further ordered, that lines No. 15 and No. 28 shall be so changed that they shall each have a maximum of ten stations per circuit. This work shall be completed within ninety (90) days from the date of this order. All other existing lines in the system shall be gradually reduced to a maximum of ten stations per circuit by transferring subscribers on overloaded lines to other lines on which vacancies occur by reason of discontinuance of service or by transferring them to new lines which are built from time to time to serve additional subscribers.

It is hereby further ordered, that applicant shall set aside in a depreciation fund the sum of $5,100 per annum in monthly installments of $425 for the purpose of taking care of such renewals and replacements of property as shall be covered by the fund. Applicant shall file with the Commission within thirty (30) days from the date of this order its suggestions for rules governing the functions and use of the depreciation fund, and these rules shall thereafter go into effect as approved or modified by the Commission.

It is hereby further ordered, that applicant shall keep the records set forth in the opinion under the caption "Records to be kept by company" and shall forward a report on same each month as outlined therein.

Dated at San Francisco, California, this third day of September, 1921.

DECISION No. 9457.

IN THE MATTER OF THE APPLICATION OF THE KERMAN TELEPHONE COMPANY FOR AUTHORITY TO INCREASE RATES FOR TELEPHONE SERVICE.

Application No. 5793.

Decided September 3, 1921.

TELEPHONE TOLLS—RATE OF RETURN.—In a new territory, where the investment in plant is large and operating expenses high, considering the present number of subscribers, full return in rates would tend to retard normal development.

SERVICE—OVERLOADING OF SUBURBAN LINES.—Declared efficient service can not be given on any circuit to which more than ten stations are connected.

DEPRECIATION FUND.—The practice of making no provision for plant replacement held unsound and applicant directed to create depreciation fund.

Max E. Socha and *Ernest Irwin,* for Applicant.

BY THE COMMISSION.

OPINION.

The Kerman Telephone Company in Application No. 5793 requests the Commission's authority to increase rates for telephone service,

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alleging that it is not receiving sufficient revenue to pay operating expenses and a fair return upon its investment.

Applicant furnishes service to the town of Kerman and the territory surrounding it. This is a comparatively new community, having been placed on the market a number of years ago by the Fresno Farms Company.

The present monthly rates on file with the Commission and those proposed by the company are as follows:

	Per month			
	BUSINESS		RESIDENCE	
	Present	Proposed	Present	Proposed
Main line, wall	$2 50	$3 50	$2 50	$3 00
Two-party line, wall	2 00	----	2 00	----
Four-party line, wall	----	2 50	----	----
Three-party or more, wall	1 50	----	1 50	----
Six-party line, wall	----	----	----	1 75
Suburban, wall	1 25	3 50	1 25	3 00
Extension	50	75	50	75

Under the present rates no distinction is made between the rates for wall and desk telephones. There seems to be no well defined primary rate area.

Applicant proposes an alternate suburban rate which is 50 cents per month less than the one shown.

Under the company's proposed rates desk telephones are to be 25 cents per month additional on all classes of service, including extensions.

The proposed primary rate area is bounded by a circle whose radius is one-half mile.

Beyond the primary rate area proposed mileage charges apply for each quarter mile or fraction thereof, as follows:

Main line, 50 cents per month.
Four-party line, 25 cents per month.
Six-party line, 25 cents per month.

A hearing was held in Kerman by Examiner Westover. At the hearing applicant submitted an income and profit and loss statement for the period December 20, 1919, to December 20, 1920; a comparative statement of income under present and proposed rates; a comparative statement of revenue and expenses under its proposed rate structure, and an estimated cost of new construction necessary to reduce the number of subscribers on suburban lines to ten per circuit. This estimate was made to meet the conditions imposed by the Commission in the order.

An appraisal of applicant's property was made and presented by the Commission's engineers. The inventory was made by our engineers with the assistance of a company representative. Applicant did not submit an independent appraisal of the property. After analyzing

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our engineer's figures we are of the opinion that for rate making purposes a fair valuation of the property as it existed at the time the inventory was made would amount to approximately $24,000. A portion of the poles in this plant was furnished by the subscribers. We do not think it proper for applicant to receive a return upon property for which it has made no outlay of capital nor do we think the subscribers should be made to pay a return upon plant for which they themselves have furnished the capital. Consequently the estimated amount furnished by the subscribers has been eliminated from the above figure. As stated above, the engineers of the company have submitted an estimated cost of construction necessary to reduce the number of subscribers on suburban lines to ten per circuit. This estimate has been checked by our engineers and amounts to approximately $4,000. This would make the fair valuation of the property, after the above changes, amount to $28,000 and we use this amount as a proper rate basis.

The gross revenue for the year ending December 20, 1920, amounts to $4,976, while the total expenses of the company, before interest deductions, amount to $5,168. Under the present rates the company would receive, for the period ending May 20, 1922, gross revenue amounting to $5,845, while the expenses for the same period would be approximately $6,800. It is apparent therefore that it is entitled to an increase in revenue in order to make a return upon its investment.

The rate schedule authorized in the order, with an estimated increase in business amounting to 7 per cent in exchange service revenue and 15 per cent in toll revenue, should produce a gross revenue of $8,350 during the coming year. The estimated expenses for the same period, including $1,000 for the replacement of depreciable property, amount to approximately $6,800, leaving an estimated net revenue, before interest deductions, of $1,550, or approximately 5½ per cent upon the rate base of $28,000.

As the territory served is new and undeveloped, the company has a large investment in plant and the operating expenses are high considering the present number of subscribers, but under the rates provided in the order it is to be anticipated that the system will grow and soon produce an adequate return upon the investment. A full return upon the investment at this time would result in rates so high as to retard the company's normal development.

The service furnished by applicant was criticized at the hearing. The main complaint indicated that the suburban lines were overloaded by having too many subscribers connected to them. We are of the opinion that efficient telephone service can not be given on any circuit to which more than ten stations are connected and provide that appli-

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cant should meet this requirement at an early date. As stated above, we have allowed an amount sufficient to cover the added fixed capital required to make these changes.

Applicant has been furnishing six-party residence exchange service. This service, in our opinion, should be discontinued and four-party line service substituted therefor. We make this recommendation on account of the fact that applicant does not furnish selective signaling on his party line service.

No provision has been made by applicant for the replacement of plant when it becomes necessary to do so. It is our opinion that this is an unsound policy and that in the future a depreciation fund should be set aside and so held that money will be available for this purpose and should be used for no other purpose without the consent of this Commission.

ORDER.

The Kerman Telephone Company having applied for permission to increase its rates for telephone service, a hearing having been held and the Commission being of the opinion that the rates authorized and the classes of service prescribed in this order are just and reasonable;

It is hereby ordered, that applicant is hereby authorized to file with the Commission within thirty (30) days from the date of this order the schedule of rates and services set forth in Schedule A, and after approval, by supplemental order herein, it is authorized to make said schedule of rates effective, subject to the conditions hereinafter set forth, and it is hereby ordered to provide the classes of service set forth in Schedule A:

Schedule A.

	Per month	
	Business	Residence
Main line, wall	$2 75	$2 25
Two-party line, wall	2 25	2 00
Four-party line, wall	2 00	1 75
Suburban ten-party line, wall	2 25	2 00
Extension (with or without bell)	1 00	1 00

Desk telephones are 25 cents additional per month on all classes of service excepting extensions.

The following mileage charges may be made outside of the primary rate area based upon the air line distance from the primary area, per quarter mile or fraction thereof:

Main line, 50 cents per month.

Two-party line, 35 cents per month.

Four-party line, 25 cents per month.

The primary rate area shall be defined by a circle with the center at the central office and with a radius of three-quarters of a mile.

All miscellaneous rates not provided for in Schedule A shall be submitted to the Commission for its approval. All services, rules and regulations not therein provided for shall remain as set forth in the

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Commission's Decision No. 2879, of November 5, 1915, as modified by Decision No. 8146, of September 24, 1920.

It is hereby further ordered, that exchange lines shall not have connected thereto more than the number of subscribers' stations which the rate schedule permits for the class of service furnished and that suburban lines shall not have connected more than ten stations each, and that upon lines having more than the maximum number of stations above provided for the work of reducing said stations shall be completed within 90 days from date hereof.

Approval of the rates herein provided for will be given only after satisfactory showing that applicant has fully complied with the conditions above as to the maximum number of stations per line herein permitted, and may be made effective subject to the following conditions:

(*a*) Adequate and efficient telephone service must be rendered at all times for all classes of service.

(*b*) A depreciation reserve of $1,000 per annum in installments of $83.33 per month shall be set aside in a special fund for the purpose of maintaining the plant in good condition and shall be used for such purposes only, or as may be authorized by the Commission. Applicant shall file with the Commission, within thirty (30) days from the date of this order, its suggestions for rules governing the functions and use of the depreciation fund and these rules shall thereafter go into effect as approved or modified by the Commission.

(*c*) An accounting system must be followed which will conform to that prescribed by the Commission in its Uniform Classification of Accounts for Telephone Companies as made effective on January 1, 1914.

Dated at San Francisco, California, this third day of September, 1921.

DECISION No. 9458.

IN THE MATTER OF THE APPLICATION OF FAIRFAX INCLINE RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK.

Application No. 7105.

Decided September 3, 1921.

Thomas W. Rivers, for Applicant.

BRUNDIGE, *Commissioner.*

OPINION.

Fairfax Incline Railroad Company asks permission to issue $10,000 of common stock in lieu of a like amount of stock heretofore issued without an order from the Railroad Commission.

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Applicant owns and operates an incline railway commencing at a point on or near lot seven (7) in block nine (9) as designated on the map of Fairfax Manor on file in the recorder's office of Marin County, and running westerly about fifteen hundred (1500) feet and upon an upward and variable incline of approximately 30 per cent to another point in said Fairfax Manor tract. According to the testimony, there is a difference of about 550 feet in the elevation between the two termini of the track.

The property of the company consists of a trestle, track, car, cables, motor, office and power house building. For 1920, applicant reports gross receipts of $2,085.85 and expenditures of $2,215.83. The Commission, by Decision No. 7501, dated April 30, 1920, authorized applicant to charge $3 for books containing 100 rides. The testimony of applicant's president shows that at present its revenues are approximately equal to its operating expenses.

I herewith submit the following form of order:

ORDER.

Fairfax Incline Railroad Company having applied to the Railroad Commission for permission to issue $10,000 of common stock in lieu of a like amount of stock heretofore issued without an order from this Commission, a public hearing having been held and the Commission being of the opinion that this application should be granted subject to the conditions contained in this order;

It is hereby ordered, that Fairfax Incline Railroad Company be and it is hereby authorized to issue at par on or before November 1, 1921, $10,000 of its common stock in lieu of a like amount of stock heretofore issued without an order from the Railroad Commission. The company is hereby directed to cancel forthwith the stock certificates heretofore issued without an order from the Railroad Commission and to report the date on which such cancellation has been made within thirty days after the date hereof.

Fairfax Incline Railroad Company shall file with the Railroad Commission within thirty days after the issue of the stock herein authorized a statement showing the amount of stock issued, the names of the parties to whom the stock was issued and the amount of stock issued to each.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of September, 1921.

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DECISION No. 9460.

IN THE MATTER OF THE APPLICATION OF F. M. HODGE, L. E. MERSHON AND H. A. ROSE FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTOMOBILE FREIGHT SERVICE BETWEEN FRESNO, CALIFORNIA, AND LOS ANGELES, CALIFORNIA.

Application No. 6217.

Decided September 3, 1921.

Harry N. Blair and *Lewis B. Randall*, for Applicants.
Bradley and Bradley, by *C. L. Bradley*, for G. C. Scribner, Protestant.
Ernest Walling, for Valley Transit Company and J. C. Walling, Protestants.
G. H. Baker, for Atchison, Topeka and Santa Fe Railway Company, Protestant.
L. N. Bradshaw, for Southern Pacific Company, Protestant.
J. R. Allen, for American Railway Express Company, Protestant.
Harry A. Encell, for R. H. Ramsey and H. Frasher, Protestants.
George Clark, for G. N. Duntley (Los Angeles-Bakersfield Fast Freight Truck Line).

BY THE COMMISSION.

OPINION.

L. E. Mershon and H. A. Rose, as copartners under the fictitious name of the Truckportation Company, applied for authority to establish freight and express truck service between Los Angeles and Fresno, serving as intermediate points Bakersfield, Jewetta, Lerdo, Famosa, McFarland, Delano, Richgrove, Orris, Ducor, Terra Bella, Plano, Porterville, Strathmore, Lindsay, Exeter, Farmersville, Visalia, Tulare (by detour), Goshen, Traver, Kingsburg, Selma, Winedale, Fowler and Calwa City.

Public hearings upon the application were held by Examiner Westover at Bakersfield and Fresno, during which 55 witnesses were examined, testimony of numerous witnesses was stipulated, and 16 exhibits were filed. Counsel for the respective parties have filed voluminous briefs, which, together with the exhibits, have been carefully studied and analyzed and the matter is now ready for decision.

During the hearings, leave was granted to amend the application by adding the name of F. M. Hodge as a third applicant, he having become associated with the two original applicants; by modifying proposed rules relating to free pickup and delivery; and by making special truck load rates. Amendments in these particulars were filed after the hearings.

As thus amended, the proposed rates shown by the application are made to apply between terminals in Los Angeles, Bakersfield and Fresno and free delivery zones not exceeding twelve blocks distant from such established terminals or depots. At points other than Los Angeles, Bakersfield and Fresno, these rates include free pickup and delivery within four blocks from applicants' proposed highway route. Truck

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load rates of two-thirds less than truck load rates are also provided for to apply from all points within five miles of the highway route.

Applicants' proposed route between Los Angeles and Bakersfield is over the so-called Ridge route via Lebec, a distance of 126 miles, as compared with the Southern Pacific rail distance between Los Angeles and Bakersfield of 171 miles. Both routes involve mountain grades through the Santa Susana and Tehachapi ranges.

The territory between Los Angeles and Bakersfield is at present served by the Southern Pacific Company, the American Railway Express Company, and the Los Angeles and Bakersfield Fast Freight Truck Line, the latter under authority granted by the Commission by Decision No. 7063 of January 27, 1920, authorizing George N. Duntley to operate such a service under the above fictitious name. The latter service is via the Ridge route, over which applicants seek authority to operate. It appears from the testimony that Mr. Duntley's line was not able to handle all business offered during the time the tunnel was blockaded, as hereinafter referred to, but that it is not operated to capacity under normal conditions, and also that he is able to provide additional equipment if and when it becomes necessary.

On September 6, 1920, a car of lime was derailed in one of the Southern Pacific tunnels, which resulted in the burning of the tunnel and the closing of the line until September 28. During this period rail service, both freight and express, was necessarily seriously interfered with, the only means of serving Bakersfield and San Joaquin Valley points from Los Angeles by rail being around the coast line and back through the valley. Although the testimony shows that the Duntley line is not operating to full capacity normally, yet during the above period, when the tunnel was out of service, it had more tonnage offered than it could handle. At the time of the hearing the Southern Pacific Company was engaged in concreting sixteen of its tunnels between Tehachapi and Bakersfield, and eliminating two by line changes. Thirteen had already been concreted at a cost up to that date of $600,000, the total estimated cost of the entire work being $844,000. The company anticipates that the concrete lining will prevent fires and caveins of tunnels and prevent blocking of the line.

Applicants presented 135 signed statements by Bakersfield shippers, favoring a competitive truck line to and from Los Angeles. It is significant that practically all of these statements were procured during the period when the tunnel was blocked. It appears from applicants' tabulations also that 64 Bakersfield shippers interviewed during the same period were opposed or neutral.

The testimony shows considerable complaint of slow wagon service at Bakersfield and Fresno on the part of the express company. There

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was also testimony to the effect that the express company, in certain instances, had declined shipments of perishable fruit offered for transportation on the southbound train leaving Bakersfield at 12.20 p.m., and that the company failed to furnish sufficient help at stations for loading fruit. It did not appear, however, that the fruit was offered a reasonable time before train departure nor that the company had any advance notice of instances in which large shipments of fruit were to be offered. It appears from its testimony that it has never declined fruit or other shipments when offered a half hour or more before the departure of the train, to permit proper checking and billing. It announced that it would gladly provide an extra force for loading cars with unusually large shipments if it were given reasonable notice by telephone. We are satisfied that the service in the above particulars can be readily improved by the express company if it is given the necessary cooperation by shippers, and that the public can be adequately served in these particulars by such improvement in the service of present carrier, without the necessity for authorizing service by another transportation system between Los Angeles and the incorporated limits of Bakersfield.

We will next consider the present service between Los Angeles and points in the San Joaquin Valley north of Bakersfield to and including Fresno, and whether or not there is a public necessity and convenience in this territory for the service which applicants offer.

The Southern Pacific Company, with its two main routes between Bakersfield and Fresno, serves all of the points which applicants propose to serve. Of these points, the Santa Fe, with its two routes between Bakersfield and Fresno, serves Tulare, Visalia and Exeter. The American Railway Express Company serves all the points which applicants propose to serve by their operation over both rail lines. G. C. Scribner operates a freight and express line between Fresno and Visalia, serving Traver and Goshen Junction as intermediate points. H. S. Frasher operates between Fresno and Tulare, serving Goshen and Traver as intermediate points. A. L. Morgan operates between Fresno and Kingsburg, serving Selma as an intermediate point, having begun operation prior to May 1, 1917. The line between Fresno and Fowler is operated by R. H. Ramsey, who began operating in 1914. All these present carriers protest the granting of the application.

It appears that there is sufficient local service at present between Fresno, Fowler, Selma, Kingsburg, Traver, Goshen and Visalia. There are no truck lines serving the other intermediate points between Bakersfield and Fresno, which applicants seek authority to serve. The present freight and express service by rail in that territory is as follows:

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The Southern Pacific Company presented an exhibit prepared from its waybills for shipments arriving during October, 1920, just after the line was cleared following the closing of the tunnel. This shows elapsed time between receipt of shipment and date of waybill on the one hand, and the day when the waybill was taken into the station accounts at destination. From this exhibit it appears that the time in the majority of cases between Los Angeles and points shown, and the average weight per shipping day, was as follows:

Between Los Angeles and following points:			
Bakersfield	2	days	15,102 lbs. daily average
Tulare	3	days	4,464 lbs. daily average
Goshen	3 to 5	days	67 lbs. daily average
Visalia	2 and 3	days	4,318 lbs. daily average
Exeter	3 and 4	days	1,267 lbs. daily average
Strathmore	3 and 4	days	449 lbs. daily average
Porterville	2, 3 and 4	days	4,994 lbs. daily average
Terra Bella	3, 4 and 5	days	735 lbs. daily average
Kingsburg	4 and 5	days	1,741 lbs. daily average
Selma	4 and 5	days	1,999 lbs daily average

It also presented an exhibit showing average hours elapsed between 4 p.m. of the day of loading and the time when the freight was available for removal from the freight house at destination, as follows:

From	To	Average hours	Cars in average
Los Angeles	Bakersfield	39	13
Los Angeles	Fresno	46	13
Fresno	Los Angeles	67	44
Bakersfield	Los Angeles	45	36
Fresno	Delano	19	24
Fresno	Kingsburg	16	22
Fresno	Selma	16	28
Fresno	Tulare	17	23
Fresno	Visalia	16	23

The Santa Fe operates through cars from Fresno to Bakersfield and Los Angeles, breaking bulk at those points. It showed that of 27 through cars moving out of Fresno at 6 p.m., November 29 to December 30, last, 20 were ready for delivery at Bakersfield the following morning, 3 the following afternoon, and 3 on the second morning. The actual time in transit was from 13 hours 5 minutes to 32 hours 25 minutes, or an average of 16 hours 37 minutes for the 111 miles.

The American Railway Express Company operates out of Fresno at 12.30 p.m. and 5.30 p.m., arriving at Bakersfield 4½ and 5 hours later, respectively, via Porterville; also leaving Fresno at 8.30 a.m. for Porterville and intermediate points, and leaving Fresno at 7.15 a.m. for points south of Exeter, arriving at Bakersfield at 11.52 a.m. and Los Angeles at 8.25 p.m. Neither of the truck lines operating out of Fresno have any time schedule on file and their service as to time was not shown at the hearing, except Mr. Scribner's.

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Applicants propose to operate upon a schedule leaving Los Angeles at 5 p.m., Bakersfield at 5 a.m., McFarland at 7.10 a.m., Terra Bella at 9.10 a.m., Porterville at 10.15 a.m., Visalia at 12.55 p.m., arriving at Fresno 4.40 p.m., with time at other points about in proportion to distance; and leaving Fresno at 5 a.m., Visalia at 8.45 a.m., Porterville at 11.25 a.m., Terra Bella at 12.30 p.m., McFarland at 2.30 p.m., Bakersfield at 4.40 p.m., Los Angeles at 5 a.m., service to be daily except Sundays and holidays. A question is raised by the rail carriers whether this schedule can be maintained. We are not satisfied from the testimony that it can be, considering time spent in local pickups and deliveries, but apparently it can be approximated.

Mr. Duntley operates over the Ridge route between Los Angeles and Bakersfield on a 14-hour schedule, which he testifies he can meet without difficulty during cool weather, but that in hot weather it can not easily be done owing to heating of the engine, but that a loaded truck should make the trip between Bakersfield and Fresno in nine hours.

Mr. Hodge testified that applicants propose to operate trailer with each truck; that trucks used over the Ridge route will probably need additional braking facilities, to be accomplished by widening the brake drums, and will need increased facilities for cooling. Mr. Duntley testifies that from his experience it is not practicable to operate trailers over the Ridge route without having an extra man to operate brakes on trailers going down the grades.

Mr. Hodge has had several years' experience in truck transportation, and is now operating 17 trucks (Packards, Macks and Fageols) and 15 trailers, with a total capacity of 183½ tons, figuring a 40 per cent overload, handling fresh fruits to canneries in Los Angeles from various points in the adjacent fruit growing territory, and citrus fruits to Los Angeles harbor for ocean shipment. This service, rendered under private contract, is highly endorsed by his patrons. Under contract with Messrs. Mershon and Rose, he agrees to furnish all necessary equipment for the proposed line, not exceeding 10 trucks and 10 trailers, and if necessary procure cash or credit to the extent of $30,000, to be used in establishing the business; all advances to be repaid out of the business, Mr. Hodge to manage and control the business and own 70 per cent of any operative right granted by the Commission, the other parties to own 15 per cent each. The pay for the use of the Hodge equipment is to be cost of operation, depreciation, and a percentage to be determined by arbitration. Mr. Hodge subsequently testified that he would furnish all of his present equipment for the proposed line if and when needed.

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Time in transit under the present and proposed services has been discussed above, and we show below comparative rates, including drayage rates:

Comparative rates, less than carload lots, in cents per 100 pounds.

	1	2	3:C	4
Between Los Angeles and Fresno:				
Classes:				
Truck	187½	160	141½	116½
Rail	115½	99	81½	72
Drayage	16	16	16	16
Express	235	176	146	---
Between Bakersfield and Fresno:				
Classes:	1	2	3:C	4
Truck	122½	104	92½	76½
Rail	58	49	40½	36½
Drayage	17½	17½	17½	17½
Express	154	116	96	---
Between Fresno and Porterville:				
Classes:	1	2	3:C	4
Truck	80	67½	60	50
Rail	39½	33	30	25
Drayage	7½	7½	7½	7½
Express	124	93	86	---
Between Bakersfield and Porterville:				
Classes:	1	2	3:C	4
Truck	69	59	51½	42½
Rail	33	28	25	22
Drayage	10	10	10	10
Express	99	74	72	--

Drayage charges: Los Angeles 8½ cents, Fresno 7½ cents, Bakersfield 10 cents. At Porterville, not in evidence. Minimum drayage charges not in evidence.

Minimum charges by rail and truck lines 50 cents, except truck charge between Los Angeles and Fresno is 75 cents.

Express company gives free pickup and delivery at all points except Famoso, Ducor, Terra Bella, Strathmore, Farmersville, Goshen and Fowler. "C" in above table represents its commodity rates.

The proposed service offering free pickup at ranches within five miles of the highway, and special fast service by through truck on truck loads at two-thirds the published rates, is rather a marked departure from the present rail freight service, plus local drayage service in the towns along the railroad, or even the usual truck service. There appears to be considerable demand for such service for perishables in truck loads making special trips.

Rates proposed for less than truck load service between the different towns on the proposed line, even in free delivery zones, are so much higher than the rail freight rates plus drayage that there is probably no real competition as to such traffic. Apparently the traffic which would move by the truck line would be that which could afford to pay a much higher rate, in return for certain advantages in the way of service, such as saving of time in transit, saving time in loading (because a truck load is so much smaller than a car load), less handling than by freight or express, less onerous requirements as to packing or

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erating, practical elimination, in many instances, of delay between the time when goods must be placed with the carrier and the time when transit begins, caused by earlier closing of rail freight houses. There was much testimony showing how the above advantages would benefit various lines of business in the territory in question.

As to fruit movements, it appears from testimony of growers that they can get on the Los Angeles market much quicker by truck, as they can load much faster with less expense in crating and no delay in icing cars, and reach the Los Angeles early markets the following morning with fruit and produce grown in the vicinity of Bakersfield. They claim they can ship riper fruit, better flavored and of increased weight, with less loss through culling of over-ripe or bruised fruit, than can be done by rail freight or express with added handling and greater delay in transit. There was also testimony to the effect that in shipping under refrigeration the usual grower would require about three days to load a car and one to ice it, delaying to this extent the time of getting on the market. There was considerable testimony showing that many merchants are carrying smaller stocks of goods than heretofore, buying at more frequent intervals and requiring faster service than by rail freight. On the other hand, there was considerable testimony showing that shippers are satisfied with rail service for those classes of freight in the transportation of which time is not a serious element and where advantage can be taken of the lower rate. Some shippers expressed a personal preference for rail service because of its dependable character, the share of the railroads in developing the country, because it is alleged that truck employes do not patronize local merchants to the extent that railroad employes do, but principally because the reduction in rail tonnage of local freight might result in curtailment of service, particularly in reference to the Southern Pacific merchandise train operating out of Fresno. It will be noticed, however, that the latter service is operated in that portion of the territory immediately south of Fresno which is already well served by truck lines. It is because of this latter situation that the order herein prohibits local service in that portion of the territory.

ORDER.

Public hearings having been held upon the above entitled application, the matter being submitted and now ready for decision:

The Railroad Commission hereby declares that public convenience and necessity require the operation by F. M. Hodge, L. E. Mershon and H. A. Rose of an automobile freight truck service between Los Angeles and that portion of the city of Bakersfield lying beyond a radius of twelve blocks from the present Bakersfield terminal of George N. Duntley, doing business under the fictitious name of Los Angeles and

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Bakersfield Fast Freight Truck Line; also between Los Angeles and Jewetta, Lerdo, Famoso, McFarland, Delano, Richgrove, Orris, Ducor, Terra Bella, Plano, Porterville, Strathmore, Lindsay, Exeter, Farmersville, Visalia, Tulare, Goshen, Traver, Kingsburg, Selma, Winedale, Fowler, Calwa City and Fresno, for the common carriage of property; and that such public convenience and necessity require said applicants to operate automobile freight truck service for the common carriage of property in truck loads at two-thirds of the rates per hundred pounds quoted in Exhibit "A", attached to the above application, between Los Angeles and the territory above described, and also a zone extending five miles on each side of the highway traversed on the route by which the above named towns are served and five miles on each side of the said twelve block radius from the said Duntley terminal in Bakersfield. Public convenience and necessity do not require operation of either of said services between Los Angeles and that portion of Bakersfield within said twelve block radius from said Duntley's Bakersfield terminal, nor do they require any local service between Fresno and Fowler, Selma, Kingsburg, Traver, Goshen, Goshen Junction, Visalia or Tulare, or between any of said points.

Nothing herein contained, however, shall be construed to prevent the transportation of property between points on said route between Fresno and Visalia or Tulare and points hereinabove named on said route lying southerly or easterly from Visalia or Tulare.

The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

No vehicle may be operated in said service unless said vehicle is owned by the applicants herein or is leased by said applicants under a contract or agreement satisfactory to the Railroad Commission.

It is hereby ordered, that applicants shall, within fifteen days from the date hereof, file with the Railroad Commission their schedules and tariffs covering said proposed service, which shall be in addition to proposed schedule and tariff accompanying the application, and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operation is extended by formal supplemental order.

The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

Dated at San Francisco, California, this third day of September, 1921.

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DECISION NO. 9464.

EAST BAY WATER COMPANY, A CORPORATION; UNION CONSTRUCTION COMPANY, A CORPORATION; BEST STEEL CASTING COMPANY, A CORPORATION; PACIFIC COAST CANNING COMPANY, A CORPORATION; GOLDEN WEST BREWING COMPANY, A CORPORATION; T. K. DOMOTO AND H. DOMOTO, COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF DOMOTO BROTHERS,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION; ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION.

Case No. 1578.

EAST BAY WATER COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1579.

Decided September 3, 1921.

RAILROAD FREIGHT RATES—REPARATION—JURISDICTION.—The Commission holds that it has no jurisdiction over reparation awards involving shipments during the period of federal control or federal guarantee.

REPARATION—DISCRIMINATION.—In the readjustment of general schedules, reparation awards would result in discrimination and will not be allowed.

E. W. Hollingsworth, *R. T. Boyd*, and *Bishop and Bahler*, for Complainants and Oakland Chamber of Commerce.
Elmer Westlake and *M. A. Cummings*, for Southern Pacific Company.
G. H. Baker, for Atchison, Topeka and Santa Fe Railway Company.
Robert Hutcherson, for Associated Oil Company, Intervener.
C. E. Donaldson, for Shell Oil Company of California, Intervener.
J. I. Sheridan, for Union Oil Company, Intervener.
Duncan S. Murray, for Alameda Sugar Company, Intervener.

LOVELAND AND BENEDICT, *Commissioners*.

OPINION.

These two cases, which were heard together and will be disposed of in one report, relate to the rates on petroleum fuel oil, in tank cars, from Richmond to Oakland and Alvarado. The complaints were filed April 8, 1921, and allege that the rates assessed and collected are unjust, unreasonable, in violation of the Public Utilities Act and of the Constitution of the State of California. The establishment of just and reasonable rates for the future and reparation since March 1, 1920, are sought. The Associated Oil Company, Shell Oil Company, Union Oil Company and Alameda Sugar Company intervened, as their interests might appear, and particularly in opposition to any change in the adjustment bringing about a disruption of the oil rate blanket now in effect from all east San Francisco Bay refining points to the consuming territory embracing Oakland and vicinity. Rates hereinafter stated apply per 100 pounds, except as otherwise indicated.

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Case No. 1578 attacks the rate of 6½ cents in effect prior to August 26, 1920, and rate of 8 cents, effective August 26, 1920, applying from Richmond to Oakland via both Southern Pacific Company and the Atchison, Topeka and Santa Fe, while Case No. 1579 calls into question the rate of 7½ cents, in effect prior to August 26, 1920, and rate of 9½ cents, effective August 26, 1920, from Richmond to Alvarado, via Southern Pacific Company.

Prior to June 25, 1918, the rate from Richmond to points within the Oakland switching limits was 35 cents per ton; on that date it was increased 25 per cent, or to 40 cents per ton. On August 10, 1918, this rate was canceled and an increase of 4.5 cents substituted; the rate to Oakland thus became 6½ cents; on August 26, 1920, another increase of 25 per cent was added, which made the present rate of 8 cents. By the same process, the rate of 3 cents, in effect prior to June 25, 1918, to Alvarado, became 9½ cents.

The distances from the loading tanks in Richmond to the industry tracks of the six complainants vary from 14.7 miles to the Pacific Coast Canning Company, to 23.5 miles to the Best Steel Casting Company, or an average distance of 18.3 miles, while the distance from Richmond to Alvarado is approximately 34 miles.

In support of their claim of unreasonableness, complainants rely principally upon a comparison of the present rates with those formerly in effect. They also presented a number of exhibits showing rates for certain selected commodities between points in the San Francisco Bay districts and between points in other territory within the state. Defendants contend that most of the rates set forth in the exhibits were established not with regard to the proper measure of return for the services performed, but to meet certain situations created mainly by compelling water competition.

An analysis of the exhibits will not be necessary, for the reason that subsequent to submission of this proceeding the Southern Pacific Company voluntarily established a readjustment of the commodity freight rates, including fuel oil, in carload lots, between Richmond and points located within Oakland switching limits, which limits include Berkeley, Emeryville, Alameda and Elmhurst. This adjustment is published in Southern Pacific Company Local and Proportional Freight Tariff 730-A, C. R. C. 2436, as per Item 1875, shown on original page 130-A, issued August 15, 1921, and made effective August 17, 1921.

The readjustment of the carload freight rates betwen Richmond and the Oakland switching district is graded out according to zones, creating a first zone with a rate of 3 cents, including Emeryville and points north and east thereof, and a second zone with a rate of 3½ cents in the territory south of the city boundary line at Emeryville to and

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including Oakland wharf on the one hand and Fallon street on the other. Within this second zone is located the industry tracks of complainants, Union Construction Company, Pacific Coast Canning Company and the Golden West Brewery. In the third zone a rate of 4 cents per 100 pounds has been established in the Oakland switching district, which includes the territory east of Fallon street to and including Elmhurst and industries located within the city of Alameda. This district serves the industry track of complainants, East Bay Water Company, Domoto Brothers and Best Steel Casting Company. The freight commodity rates just referred to also include, as heretofore stated, petroleum fuel oil, and by the provisions of Item No. 1670-B, carried on ninth revised page 326 of Southern Pacific Company Local, Joint and Proportional Freight Tariff 333-F, C. R. C. 2395, make the carload freight commodity rate apply to fuel oil from all of the oil shipping points—Richmond to Avon, inclusive.

The effect of the adjustment referred to gives to complainants located in the second zone—Union Construction Company, Pacific Coast Cannery and Golden West Brewing Company—a rate of 3½ cents per 100 pounds, or 70 cents per ton, in lieu of the present rate of 8 cents per 100 pounds, or $1.60 per ton, a reduction of 90 cents per ton.

To the complainants East Bay Water Company, Domoto Brothers and Best Steel Casting Company, located in the first zone, as described, the rate has been reduced to 4 cents per 100 pounds, or 80 cents per ton, as compared with the present rate of 8 cents per 100 pounds, or $1.60 per ton, thus creating a reduction of 80 cents per ton. It appears to the Commission that the rates from Richmond to Oakland, made effective by the Southern Pacific Company, of 60, 70 and 80 cents per ton are reasonable. These rates are zoned according to mileage and conform to the existing switching limits established by this Commission in Application No. 6390, Decision No. 8960, May 12, 1921. We conclude there should be no further reduction in these rates at this time.

This leaves for consideration only the establishment of a just and reasonable rate to apply on fuel oil moving from Richmond to Alvarado, where the rate at the present time is 9½ cents per 100 pounds, or $1.90 per ton.

The distance from Richmond to Alvarado is slightly more than 34 miles, involving an extra haul of 11 miles beyond the furthest point in the third district within the Oakland switching limits, where the 80-cent rate has recently been established.

The differential in the rate existing between Oakland and Alvarado was 25 cents per ton on June 24, 1918, and became 30 cents per ton August 26, 1920, the date upon which the last increase in rates was authorized in connection with this Commission's Decision No. 7983 in

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Application No. 5728 of August 17, 1920, which increase in rates followed the decision of the Interstate Commerce Commission in *Ex Parte* 74.

In view of the fact that any rate on fuel oil established from Richmond to Alvarado, a distance of approximately 34 miles, also applies under the blanket rate adjustment from Avon to Alvarado, a distance of approximately 54 miles, we are of the opinion that the present existing differential of 30 cents per ton should be maintained and that, therefore, a rate of $1.10 per ton is just and reasonable for the transportation of fuel oil between Richmond and Alvarado in lieu of the present rate of $1.90 per ton.

Complainants have asked for reparation in connection with shipments moved since March 1, 1920. However, under the provision of section 208 (*a*) of Transportation Act 1920 the federal government guaranteed to carriers a fixed rate of return until September 1, 1920, and the Transportation Act further provided that the rates in effect as of February 29, 1920, should not be reduced prior to September 1, 1920, without authority of the Interstate Commerce Commission. It would appear, therefore, that this Commission has no jurisdiction over reparation awards involving shipments moved prior to September 1, 1920, during the period of federal control or during the period of federal guarantee.

This Commission has previously held that in the readjustment of a general schedule of rates, such as involved in this proceeding and covering a large territory and a great number of shippers, reparation awards would result in discrimination and should not be authorized; we therefore conclude that no reparation will be ordered paid in connection with these proceedings.

We find as a fact that the rate of $1.60 per ton for the transportation of petroleum fuel oil, in carload lots, from Richmond to Oakland, and the rate of $1.90 per ton from Richmond to Alvarado, are excessive, unreasonable and unlawful.

We further find that the rates established by the Southern Pacific Company August 17, 1921, of 60, 70 and 80 cents per ton on petroleum fuel oil from Richmond to the described districts within the Oakland switching limits are just and reasonable and should not be further reduced.

We also find that a rate of $1.10 per ton from Richmond to Alvarado is just and reasonable and the Southern Pacific Company should establish this rate within twenty (20) days from the effective date of this order. As to the rates on fuel oil from Richmond to Oakland via the Atchison, Topeka and Santa Fe, the Atchison, Topeka and Santa Fe has already secured from the Commission, by informal application,

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authority to reduce its fuel oil rates to Oakland to the same basis as those put into effect by the Southern Pacific Company on August 17, 1921.

We recommend the following form of order:

ORDER.

A public hearing having been held in the above entitled proceedings, a full investigation having been had, being fully apprised in the premises, and basing its order upon the foregoing opinion, the Commission finds as a fact that the petroleum fuel oil rate of $1.60 per ton Richmond to Oakland and $1.90 per ton Richmond to Alvarado are excessive and unreasonable, and that rates of 60, 70 and 80 cents per ton from Richmond to the respective zones in Oakland (as described in the opinion) and rate of $1.10 per ton from Richmond to Alvarado are just and reasonable rates;

It is hereby ordered, that the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company, as their interests may appear, publish and file with this Commission on or before twenty (20) days from the date of this order tariffs setting forth rates of sixty cents (60c), seventy cents (70c) and eighty cents (80c) per ton on petroleum fuel oil Richmond to the described zones in Oakland and that the Southern Pacific Company publish rate of $1.10 per ton Richmond to Alvarado.

It is hereby further ordered, as to the other matters involved that the complaints be and the same are hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of September, 1921.

DECISION No. 9469.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ABANDONMENT OF ITS AGENCY STATION AT CALNEVA, CALIFORNIA.

Application No. 6496.

Decided September 7, 1921.

BY THE COMMISSION.

OPINION.

The Western Pacific Railroad Company has petitioned the Railroad Commission for an order authorizing the discontinuance of its agency station at Calneva, California, alleging in such petition that the

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amount of traffic developed by the maintenance of a station at such point does not justify the continuance of an agency and that there is no public necessity for its continued maintenance, as freight and express would be received and delivered under the usual conditions obtaining at a nonagency station and passengers would continue to be received and discharged at such station.

An informal investigation has been made by the Commission since the filing of this application and it appears that the volume of traffic originating at and destined to the station of Calneva is limited in amount. The following is a record of the business handled during the year ending December 31, 1920:

Passenger tickets sold (61)	$330 23
Freight received (55,729 pounds)	435 01
Freight forwarded (23,632 pounds)	178 27
Total	$943 51

The expense of maintaining the station for the same period has amounted to $1,862.13, of which amount $1,680.64 was for salary of the agent.

Protests have been received by the Commission against the granting of the application, but it is apparent that the business handled does not justify the expense of maintaining an agency at this point.

The Commission's investigation develops the fact that Calneva is a water station and that an employee divides his time between this station and Hackstaff in operating the pumping plants serving the tanks containing water supply.

In view of the fact that the trains serving Calneva are so scheduled that the employee designated to handle the pumping plants can arrange to be at Calneva during the hours when passenger trains scheduled to stop at this station are arriving and at the time when local freight trains are due, we are of the opinion that the employee used as a pumper should also be used as a caretaker and thereby furnish reasonable service to the patrons of the company using Calneva station. The establishment of a caretaker at this station will result in the public receiving a portion of the service that would be available from an agency station. The station will be open at hours when passenger trains scheduled to stop at this station are due, shippers and receivers of less than carload freight will be able to have their shipments stored in the warehouse for protection against pilferage and the weather and consignees can secure same by presenting themselves at the hours when the caretaker is on duty at Calneva station. No tickets will be available and no receipt for freight shipments will be available, nor will receipts be exacted when delivery of consignments is made, the

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station to be handled as a nonagency as regards the receipt and delivery of less than carload freight, baggage and express.

We are of the opinion that the application should be granted conditioned upon applicant, Western Pacific Railroad Company, being required to substitute a caretaker in lieu of the agent as more specifically defined in the following order:

ORDER.

Western Pacific Railroad Company having applied for authority to discontinue its agency station at Calneva, an investigation having been made, the Commission being fully advised and of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted conditionally;

It is hereby ordered, that this application be and the same hereby is granted, subject to the following conditions:

1. At the time of discontinuance of the agency at Calneva, applicant, Western Pacific Railroad Company, will be required to substitute for the agent heretofore employed at such station, an employee whose duties will comprise those of a caretaker, and to include his attendance at hours when passenger trains scheduled to stop at Calneva arrive; to keep the station in condition for the use of passengers as to cleanliness, light and heat during the hours when trains are scheduled to arrive and depart; to render assistance in the conduct of less than carload freight and express business by caring for shipments, both incoming and outgoing, to the extent that they are placed in the station warehouse and are kept from the weather and opportunity for pilferage. No receipts are to be required for shipments delivered for forwarding or to be exacted for freight delivered to consignees. Tickets are not to be sold by the caretaker, passengers to be required to pay fares to conductors of trains, either through to destination or to the next open ticket office as may be arranged by applicant, Western Pacific Railroad Company. In either case, no excess train fare to be required due to passenger paying fare on train.

2. Applicant, Western Pacific Railroad Company, will be required to give ten days' notice to the traveling public of the discontinuance of agency as hereby conditionally authorized, by posting notice at its station of Calneva, such notice to state the date that the agency station will be discontinued and also to advise the shipping and receiving public the hours upon which the caretaker will be on duty and the specific duties such caretaker will perform for the public. A copy of such notice will also be filed with this Commission.

Dated at San Francisco, California, this seventh day of September, 1921.

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DECISION No. 9470.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF THREE MILLION DOLLARS PRINCIPAL AMOUNT OF FIRST MORTGAGE SIX PER CENT BONDS.

Application No. 7031.

Decided September 7, 1921.

A. R. Baldwin, General Counsel; *Lester J. Hinsdale*, General Attorney, and *Carl Taylor*, of Counsel, for The Western Pacific Railroad Company.

LOVELAND, *Commissioner*.

OPINION.

The Western Pacific Railroad Company, hereinafter sometimes referred to as applicant, asks permission to issue and sell, at not less than 94 per cent of their face value and accrued interest, $3,000,000 of first mortgage 6 per cent bonds due March 1, 1946.

As of June 30, 1921, applicant reports $47,500,000 of common and $27,500,000 of 6 per cent noncumulative preferred stock. This stock was issued under the authority granted in Decision No. 3505, dated July 12, 1916 (Vol. 10, Opinions and Orders of the Railroad Commission of California, page 563), in payment for the properties of Western Pacific Railway Company. In the same decision the Commission authorized applicant to issue and sell, for not less than 90 per cent of their face value and accrued interest, $20,000,000 of first mortgage bonds due March 1, 1946. Of the proceeds not exceeding $2,000,000 applicant was permitted to use to pay distributive shares of nonassenting bondholders, reorganization expenses, and expenses incident to the reorganization of the Western Pacific, as more fully set forth in Decision No. 3505. The remainder of the proceeds were from time to time to be expended for the acquisition and construction of new properties. On August 16, 1921, the day this application was heard, applicant's treasurer reported that it had $7,087,085.30 on hand from the sale of the bonds. Since then, the Commission has authorized applicant to expend $5,620,424.32 of this amount, leaving $1,466,660.98 not covered by an order of the Commission.

On April 9, 1921, the Commission by Decision No. 8834 authorized applicant to issue $4,180,000 of 5 per cent first mortgage bonds to enable The Western Pacific Railroad Corporation to purchase outstanding securities of Sacramento Northern Railroad. These bonds have been issued by applicant. Of the total bonds heretofore issued, $176,500 have been retired through the sinking fund, leaving a total of $24,003,500 outstanding on June 30, 1921.

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It appears from the testimony in this proceeding that in 1918 and prior to the operation of applicant's properties under the federal control act, applicant ordered five Mikado type freight locomotives, 400 steel frame gondola cars and 1500 steel under-frame cars. The equipment cost $4,112,648.17. Applicant expected to pay for this equipment out of the proceeds realized from the sale of the $20,000,000 of bonds, the issue of which the Commission authorized in Decision No. 3505. Because applicant's properties were being operated by the federal government, the trustees under applicant's first mortgage, following the advice of their counsel, refused to release any of the proceeds to pay for the equipment. The result was that the company had to borrow money to pay for the equipment. Under the authority of the Director General of Railroads, applicant issued $3,600,000 of 6 per cent equipment gold notes payable in twelve consecutive installments of $300,000 each, payable respectively on the first day of February and on the first day of August in each year commencing on the first day of August, 1920, and ending on the first day of February, 1926. The notes were sold to The Equitable Trust Company of New York at 97.0491⅔ per cent of their face value, and accrued interest. They are callable at 101½ and accrued interest. The sale agreement provided, among other things, that the trust company would charge applicant one per cent interest only on the transaction, provided applicant kept on deposit with the trust company during the period the notes were outstanding an amount of cash equal to the face amount of notes. To secure the full benefit of this agreement, applicant had to deposit $3,600,000 of the proceeds from the sale of the $20,000,000 of first mortgage bonds with The Equitable Trust Company. The trust company agreed to allow applicant such rate of interest on the amount of the deposit, equal to the principal of the notes held by the trust company, as would result in the receipt by the trust company of a net interest rate (after deducting expenses) of one per cent on the purchase price of the notes held by the trust company (viz, 97.0491⅔) over and above the rate of interest allowed by the trust company on such amount of said deposit.

Of the $3,600,000 of equipment gold notes, $900,000 have been paid, leaving $2,700,000 outstanding. These outstanding notes call for the deposit of $2,700,000 of cash with the trust company. The testimony shows that applicant will require this cash during the current and following year for construction purposes. Applicant has therefore concluded to purchase at par from the trust company the $2,700,000 of outstanding equipment gold notes. The trust company has agreed to deliver the notes to applicant at par and not insist on their redemption at the call price.

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The record shows that The Equitable Trust Company has expressed a willingness to purchase at 94 per cent of their face value and accrued interest $3,000,000 of applicant's first mortgage 6 per cent bonds, due March 1, 1946, and callable at 102½ per cent of their face value and accrued interest thereon. Applicant asks permission to use the proceeds to pay the $2,700,000 of outstanding equipment gold notes, and reimburse its treasury on account of moneys expended to pay $300,000 of the notes due August 1, 1921. The financing of the payments made on the equipment prior to August 1, 1921, is covered in another decision of the Commission.

I herewith submit the following form of order:

ORDER.

The Western Pacific Railroad Company having applied to the Railroad Commission for permission to issue and sell $3,000,000 of first mortgage bonds, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured by such issue are reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that The Western Pacific Railroad Company be and it is hereby authorized to issue and sell, for cash, on or before December 31, 1921, at not less than 94 per cent of their face value and accrued interest thereon, $3,000,000 of 6 per cent first mortgage bonds due March 1, 1946, callable at 102½ per cent of their face value and accrued interest thereon, and use the proceeds to pay in whole or in part the $2,700,000 of outstanding equipment gold notes referred to in this application and reimburse its treasury on account of moneys expended to pay $300,000 of said notes due August 1, 1921, or on account of moneys hereafter expended from income or from other moneys not derived from the issue of stocks, bonds, notes, or other evidences of indebtedness, in the payment of said notes, or any of them.

The authority herein granted is subject to further conditions as follows:

1. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to two thousand dollars ($2,000).

2. The Western Pacific Railroad Company shall keep such record of the issue and sale of the bonds herein authorized, and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of September, 1921.

DECISION No. 9471.

IN THE MATTER OF THE APPLICATION OF THE HEALDSBURG-SANTA ROSA AUTO FREIGHT LINE FOR AN ORDER GRANTING PERMISSION TO ESTABLISH TARIFF ADJUSTING FREIGHT RATES.

Application No. 6920.

Decided September 7, 1921.

Harvey A. Loveland, for Applicant.

BY THE COMMISSION.

OPINION.

The Healdsburg-Santa Rosa Auto Freight Line, by Harvey A. Loveland, its agent, applied to the Commission under Rules 10 and 11 of General Order No. 51, for an order authorizing a readjustment of certain freight rates by establishing rates shown in Exhibit "A" and Amended Exhibit "A," attached to and made a part of the application, and eliminating certain special commodity rates now in effect in said applicant's Local and Proportional Freight Tariff No. 1-A, C. R. C. No. 4, naming class and commodity rates between Healdsburg and Santa Rosa.

The proposed rates are to be governed by the Northern California Auto Traffic Bureau Freight Classification No. 1, C. R. C. No. 1.

The application is made with a view, in part, of placing the Healdsburg-Santa Rosa Auto Freight Line's tariff on a proper basis, the tariff now on file being governed by the Western classification and providing ten classes of rates. The proposed rates will be lower than rail rates to and from the same points, for the reason that applicant's rates include pickup and delivery service.

Attached to and made a part of the application is Exhibit "B," covering statement of expenses and revenue for the six months December, 1920, to May, 1921, both inclusive. This statement shows the line's total revenue for the period to have been $3,209.50 and the total expenses $3,341.25, a loss of $131.75. This loss is exclusive of any amount for tire expense, no new tires having been purchased during the period.

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In connection with the application there was transmitted a petition signed by all receivers of freight located at Healdsburg, to the effect that they had no objection to the tariff proposed.

The applicant operates under the fictitious name of Healdsburg-Santa Rosa Auto Freight Line; the service was formerly performed under the ownership of P. Dicke. Under date April 15, 1920, by Decision No. 7432, in Application No. 5541, the operative rights were authorized transferred to the present owners, who have continued in effect the rates charged by the former operators. Through some misunderstanding and ignorance of the law and the Commission's regulations, these rates were not incorporated in a proper tariff publication and the instant application seeks authority to publish a tariff containing the rates now actually assessed, which rates are satisfactory to the patrons of the line, as evidenced by the petition referred to.

The automobiles and other property devoted to the service have a value of approximately $20,000; it is necessary to use all of the vehicles during the peak season when the fruit and farm tonnage is moving. In addition to its regular common carrier service between Santa Rosa and Healdsburg, applicant does "for hire" work for farmers and others whenever opportunity offers and this outside employment assists in maintaining the regular service which, it is claimed, could not otherwise be rendered. The freight truck makes regular schedules over the line during the winter months, regardless of the volume of the business and frequently runs without any tonnage, the loss for these months being recovered during the balance of the year. The items of operating expense appear reasonable; the owners, who also act as truck drivers, take out of the business $130 per month each, this being equivalent to wages paid hired drivers.

In view of the fact that the tariff proposed will bring about practically no increases, we are of the opinion that the application should be granted.

ORDER.

It is hereby ordered, that this application be and the same is hereby granted.

Dated at San Francisco, California, this seventh day of September, 1921.

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DECISION NO. 9474.

IN THE MATTER OF THE APPLICATION OF ASSOCIATED TELEPHONE COMPANY, A CORPORATION, FOR PERMISSION TO REVISE AND FILE RATES FOR FARMER LINE AND SUBURBAN TELEPHONE SERVICE OUTSIDE OF THE CITY LIMITS OF LONG BEACH AND SAN BERNARDINO, CALIFORNIA.

Application No. 6924.

Decided September 7, 1921.

TELEPHONE RATES—MILEAGE CHARGES ADDED TO BASE RATES—UNIFORMITY.—For suburban service the system of adding mileage charges to base rates results in wide variation of charges for similar service and the substitution of uniform rates held in the public interest.

UNAUTHORIZED TARIFF.—Making rates effective before authorization of the Commission is obtained held discriminatory and illegal, and adjustment of charges ordered.

W. W. Butler, George B. Ellis, Sam R. Heffley, for Applicant.
William Guthrie, City Attorney, for City of San Bernardino.
C. A. Buffum, Mayor, and *George L. Hoodenpyl*, City Attorney, for City of Long Beach.
Dwight Towne, for Towne-Allison Drug Company of San Bernardino.

BENEDICT, *Commissioner*.

OPINION.

In Decision No. 7438, in Application No. 4817, of Union Home Telephone and Telegraph Corporation, now known as Associated Telephone Company, the Railroad Commission authorized the establishment and filing of rates for the principal classes of telephone service being furnished by the applicant in the cities of Long Beach and San Bernardino. Provision was also made for the subsequent filing of rates subject to Commission approval for those classes of service for which rates were not specifically provided in the order. Rates for private branch exchange service have been filed and approved by the Commission as required in this provision and applicant has offered a revised schedule of suburban and farmer line rates to complete its filing in accordance with this provision. It appearing to the Commission upon investigation, however, due to certain increases in rates which are involved in the revised schedule here referred to, that its approval for the filing of revised rates requires the filing of a formal application and a further hearing, this application was filed and a public hearing was held in Los Angeles on July 14, 1921.

The rates now in effect for suburban and farmer line service at applicant's Long Beach and San Bernardino exchanges are set forth in Exhibit A, appearing in this application as follows:

Present Rates Charged and Collected by Associated Telephone Company for Suburban and Farmer Line Service.

At Long Beach.	Wall set	Desk set
Business	$3 00	$3 25
Residence	1 75	2 00

Plus mileage at rate of 25 cents for each half mile or fraction thereof, outside city limits.

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At San Bernardino.

	Wall set	Desk set
Business	$2 75	$3 00
Residence	1 50	1 75

Plus mileage at rate of 25 cents for each half mile or fraction thereof, outside city limits.

Farmer Lines.

Where the subscriber owns the instrument and line to city limits where same are connected to our lines (they maintaining their own lines to this point), at a rate of $8.40 per annum.

The rates proposed by applicant as cancelling and superseding the present rates shown in Exhibit A are set forth in Exhibit B, appearing in the application as follows:

Proposed Rates for Farmer Line and Suburban Service.

Long Beach.

Suburban service monthly net rental rates:	Wall	Desk
*Ten-party line, harmonic selective, instrument located in business place	$3 25	$3 50
*Ten-party line, harmonic selective, instrument located in residence	2 75	3 00
†Ten-party line, magneto, instrument located in business place	3 25	3 50
†Ten-party line, magneto, instrument located in residence	2 75	3 00

*This class of service not furnished beyond four-mile limit.
†This class of service furnished outside of four-mile limit only.

San Bernardino.

Suburban service monthly net rental rates:	Wall	Desk
*Ten-party line, harmonic selective, instrument located in business place	$3 00	$3 25
*Ten-party line, harmonic selective, instrument located in residence	2 50	2 75
†Ten-party line, magneto, instrument located in business place	3 00	3 25
†Ten-party line, magneto, instrument located in residence	2 50	2 75
Farmer line service annual net rental rates:		
Connected at city limits with minimum of five stations on line, $8 40 each station.		

*This class of service not furnished beyond four-mile limit.
†This class of service furnished outside of four-mile limit only.

The present rates for suburban service were established under federal control, during which time the Railroad Commission was without jurisdiction in the matter of the establishment of rates. Subscribers having this class of service are located in the outlying or suburban sections of the cities of Long Beach and San Bernardino, and as will be seen from the schedule appearing in Exhibit A, the present rates are made up by the addition of mileage charges to specified base rates, the amount of the mileage charge in each case varying as the distance between the subscriber's location and the city limits varies. The result is a wide variation in rates for the same or similar service. It happens also that although the San Bernardino exchange is much the smaller of the two exchanges, serving approximately one-quarter the number of subscribers that are served from the Long Beach exchange, and although the base rate is, as it should be, lower than the Long Beach

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base rate, by the application of mileage charges on the present basis, the ultimate rate at San Bernardino is generally very considerably higher than the ultimate rate for similar service at Long Beach.

The difficulty in this case appears to lie in the method employed in computing the rates. Within cities or towns where the development is more or less compact, it is the practice usually to provide a class or classes of telephone service designed to meet local requirements and at rates which are at once compensatory to the utility and not prohibitive to its patrons. In sparsely settled territory the cost of construction, necessary to furnish the same classes of service as those furnished within the more densely settled areas, would make the rates, which would be compensatory to the utility, prohibitive to the patrons. It is therefore necessary to provide a class or classes of service in suburban territory which will not involve either construction costs or rates which may be prohibitive. To do this the service which will admit of the connection of a greater number of subscribers or patrons to each line than is ordinarily connected within the more compactly developed areas is usually provided. The class of such service, in this respect, is inferior to the other classes, but it is the best that circumstances will permit, and usually it meets the requiremnets of suburban areas. It is that class of service commonly referred to as suburban service. The rates applicable thereto should be and usually are uniform, just as the rates for the better classes of urban service are usually uniform. In the present case, however, as a result of applying mileage charges of varying amounts to fixed base rates, as pointed out above, applicant's present rates are not uniform and in some instances at San Bernardino they are excessive.

The rates set forth in applicant's Exhibit B, if made effective, will result in uniformity, and they are comparable with the rates now in effect for similar service at other points in California. In San Bernardino their establishment will bring about substantial reductions due to the fact that the present rates are excessive. At Long Beach, however, they will result in a number of increases where the rates are now lower than they should be. The net result to the company in so far as its revenues are concerned will be negligible.

Under all of the circumstances it is our opinion that the establishment of uniform rates in this case is in the public interest and that the application herein should be granted. It should be noted, however, that since this matter was submitted it has come to the attention of the Commission that the applicant has made the rates, herein proposed, effective for all new business taken since its revised schedules were offered for filing, notwithstanding the fact that their establishment has not yet been authorized. The effect has been to increase published and

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filed rates in some instances, and in others to provide service at rates lower than schedule. This is, of course, discriminatory and in violation of the provisions of the Public Utilities Act. From the date of installation of service in each such case, applicant should make full reparation for all rates collected in excess of legal rates in the first instance, and, in the second instance, collect from subscribers and patrons the difference between the legal rates and the lower rates heretofore charged. The following order is recommended:

ORDER.

Associated Telephone Company having filed its application with the Railroad Commission, asking for authority to revise and refile its present rates for suburban service and farmer line service furnished at its Long Beach and San Bernardino exchanges, a public hearing having been held, the matter having been submitted and being now ready for decision;

It is hereby ordered, that Associated Telephone Company be and it is hereby granted authority to publish, file with the Railroad Commission, within thirty (30) days of the date of this order, and to make effective on and after October 1, 1921, a schedule of rates for suburban service and farmer line service at its Long Beach and San Bernardino exchanges as provided in Exhibit B set forth in the opinion preceding this order; and

It is hereby further ordered, that Associated Telephone Company, within thirty (30) days from the date of this order, shall in each case in which suburban service has been installed at rates other than those legally in effect and on file with the Railroad Commission make full reparation for all rates charged and collected in excess of legal rates and collect from subscribers the difference between the legal rates and the rates heretofore actually charged and collected, in all cases in which rates lower than those legally in effect and on file with the Railroad Commission have heretofore been charged and collected, and shall within sixty (60) days of the date of this order furnish to the Railroad Commission satisfactory evidence that the provisions of this paragraph have been fully complied with.

This opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of September, 1921.

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DECISION No. 9486.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR A CERTIFICATE THAT PRESENT AND FUTURE PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION OF A HYDROELECTRIC POWER HOUSE ON THE SAN JOAQUIN RIVER, FRESNO COUNTY, WITH APPURTENANT PENSTOCKS, WATER CONDUITS AND TRANSMISSION LINE, ALL OF WHICH WILL CONSTITUTE AN EXTENSION TO THE HYDROELECTRIC GENERATING SYSTEM OF APPLICANT.

Application No. 7071.

Decided September 8, 1921.

Roy V. Reppy, for Applicant.
F. H. Fowler, for Federal Power Commission.
Charles H. Lee, for Division of Water Rights, Department of Public Works, State of California.

BENEDICT, *Commissioner*.

OPINION.

Southern California Edison Company, hereinafter referred to as Edison Company or applicant, alleges that the demand for electric energy in the territory which it serves is in excess of the present capacity of its electric generating plants; that this demand is growing; that the increased capacity to be provided by the construction of a certain proposed hydroelectric development known as the Big Creek No. 3 power house will not be greater than the increased demand by the time that development is ready for operation, and prays that the Railroad Commission make its order declaring that public convenience and necessity require the construction of the proposed power development.

A complete examination of applicant's properties, finances and business was made by the Commission in connection with Application No. 5394 of Edison Company for permission to increase its electric rates and a description of the system will be found in Decision No. 8815, March 31, 1921 (Volume 19, page 995, Opinions and Orders of the Railroad Commission). The summary of an extensive study of the future demands likely to be made upon it and its proposed construction program to meet these demands was presented by Edison Company in connection with the above mentioned application and additional information has been presented from time to time in connection with applications for permission to issue stock and bonds and to construct other parts of the development. It is proposed to construct on the upper San Joaquin River and tributaries a system of reservoirs, tunnels and power houses that will completely utilize the available water resources, and the present application refers to a portion of the ultimate development, known as Big Creek No. 3 power house.

This immediate proposal is for the construction of a dam across the San Joaquin River just below the confluence of Big Creek, creating a

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forebay reservoir which will have sufficient storage capacity to be useful in daily regulation but which will not be important for seasonal storage. Water will be conducted from this forebay through a tunnel about five and three-quarters miles long to a point above the proposed power house site, and dropped through penstocks to the wheels which will operate under an average static head of approximately 825 feet. A short transmission line will connect with the existing transmission lines from the present developments on Big Creek.

When fully completed this plant will have a capacity of approximately 150,000 kilowatts and assuming an average supply of water and the completion of the proposed reservoirs the possible output will be approximately 950,000,000 kilowatt hours per year. It is proposed to install the first two units of 25,000 kilowatts capacity each in 1923, and the remaining units as called for by load conditions and made economical by the development of additional storage.

The ultimate cost of the complete development is estimated at approximately $17,500,000, of which about $11,500,000 will be required for the construction of the dam and tunnel and installation of the first two units. The cost of the power is estimated at less than five mills per kilowatt hour for the initial development and as the addition of further units will increase the output without a corresponding increase in investment and operating expenses, power from the ultimate development is expected to cost but slightly in excess of two mills per kilowatt hour. Adding a proportion of the cost of reservoirs and other works which will benefit the Big Creek No. 3 development but which are not a part of it and are useful in connection with other developments, will increase these costs but the cost of power from the ultimate developments including these items is expected to be in the neighborhood of three mills per kilowatt hour. These figures all compare very favorably with the cost to Edison Company of generating this power from steam, which, at the current price of $1.50 per barrel for fuel oil, would be about six mills per kilowatt hour for fuel alone and in the neighborhood of one cent per kilowatt hour when other plant expenses are included. The market price of fuel oil is subject to considerable variation, but with the continued depletion of the local supply there is no reason to expect any permanent and material reduction in price.

The right to the use of stored water for irrigation after it leaves the power houses is now the subject of litigation that may interfere with the development of the additional storage that is part of the complete scheme of development of the upper San Joaquin and Big Creek water resources. The evidence shows, however, that the Big Creek No. 3 development may be carried out to about half of its ultimate capacity

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without more storage than is now definitely assured. Under such conditions the anticipated low cost of power from the ultimate development could not be realized but the cost should not exceed 3.5 mills per kilowatt hour. Such a figure is low by comparison with the cost of steam power or of water power produced in any but very favorable locations. Even were there no possibility of the carrying out of the entire Big Creek and San Joaquin project the proposed Big Creek No. 3 development in connection with the assured storage above it would be a desirable one.

The output of power from the system now operated by Edison Company has increased from about 600,000,000 kilowatt hours in 1913 to over 1,000,000,000 kilowatt hours estimated for the year 1921 and is expected to exceed 1,300,000,000 kilowatt hours in 1923, when the first units of the proposed development are available. The existing and proposed hydroelectric plants, exclusive of Big Creek No. 3, will have an output in 1923, with average stream flow, but slightly in excess of 1,000,000,000 kilowatt hours as compared with the expected demand for 1,300,000,000 kilowatt hours. The anticipated maximum demand for 1923 is 275,000 kilowatts and in a year of minimum water supply all the steam and hydroelectric plants, exclusive of Big Creek No. 3, will have a capacity but slightly in excess of 253,000 kilowatts. It is therefore apparent that the development of additional water power is not only desirable to minimize the more expensive operation of steam plants which will otherwise be necessary, but it is essential that additional capacity be provided to meet the demands for power that must be expected within the next two years.

I recommend the following form of order:

ORDER.

Southern California Edison Company having applied to the Railroad Commission for a certificate that public convenience and necessity require the construction by it of a certain proposed hydroelectric power house with appurtenant water conduits, transmission lines, etc., a hearing having been held and the matter submitted.

The Railroad Commission of the State of California does hereby certify and declare that public convenience and necessity require the construction by Southern California Edison Company of the hydroelectric power house, penstocks, water conduits and transmission lines; all known as its Big Creek No. 3 development and more fully described in the application for this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of September, 1921.

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DECISION No. 9489.

IN THE MATTER OF THE APPLICATION OF COAST TRUCK LINE, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF FORTY SHARES OF ITS CAPITAL STOCK.

Application No. 6858.

Decided September 12, 1921.

Henry J. Bischoff, for Applicant.
Warren E. Libby, for Boulevard Express Company.
Harry N. Blair, for Ralph C. Walker.

BY THE COMMISSION.

OPINION.

Coast Truck Line applies for authority to issue forty (40) shares of its capital stock.

A public hearing upon the application was held by Examiner Westover at San Diego.

It appears from the application and the testimony presented in its support that applicant proposes to issue forty (40) shares of its capital stock of the par value of $100 per share, and use the proceeds for working capital. Applicant alleges that it is in need of additional working capital and that for that purpose it requires the following amounts:

To cover customers' accounts receivable	$1,000 00
Gas, oils and lubricants	250 00
Repairs	100 00
Freight bills, stationery	200 00
Miscellaneous equipment	100 00
Prepaid rent	300 00
Prepaid license fees	200 00
Prepaid insurance	850 00
Tire replacements	1,000 00
Total	$4,000 00

Applicant is engaged in operating a freight truck service between San Diego and Oceanside, acquired by authority of the Commission from Roy Jakeway in consideration of 90 shares of its capital stock, and a separate service between Los Angeles and Escondido via Oceanside acquired by authority of the Commission from R. Roy Whetstone in consideration of 43½ shares of its capital stock, since March 20, 1921.

By Application No. 6857, Coast Truck Line applied for authority to increase rates on its San Diego-Oceanside division, including in its rate base $500 for working capital. (See Decision No. 9433 of August 30, 1921.) The order authorizing these transfers provided that the operative rights previously enjoyed by Messrs. Jakeway and Whetstone, respectively, should not be enlarged or increased by the granting of authority to make the transfers, this provision being based upon a

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stipulation at the hearing concerning the transfers to the effect that these two lines would not be operated as one. (See Decision No. 8715 of March 8, 1921, upon Applications Nos. 6094, 6095 and 6096.)

It appears from the testimony that applicant is now carrying freight through between San Diego and Los Angeles via Oceanside, and in apparent disregard of its stipulation at the previous hearing. The fact was stated as one reason for needing more working capital incident to developing applicant's business, although the testimony at the rate hearing showed that tonnage handled on the San Diego-Oceanside division had fallen off since applicant took over the line.

Considering all of the circumstances, together with the fact that many of the items which applicant wants to finance through the issue of stock are chargeable to operating expenses, we conclude that applicant should not at this time be permitted to issue more than $1,000 par value of stock for working capital in the operation of the two lines taken over, and the order will so provide.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and now ready for decision, and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of stock hereinafter described is reasonably required for the purpose or purposes specified in the order;

It is hereby ordered, that Coast Truck Line, a corporation, be and it is hereby authorized and empowered to issue ten shares of its capital stock of the par value of $100 per share, at its par value without the payment of commission, discount or allowance, and use the proceeds thereof for the purpose of acquiring property, improving or maintaining its service, or the discharge or lawful refunding of its lawful obligations. This authority is granted upon the following conditions:

1. The authority herein contained shall extend only to such stock as may be issued on or before sixty days from date hereof.

2. Coast Truck Line shall keep true and accurate accounts, showing receipt and application, in detail, of the proceeds from the sale of the stock herein authorized, and until all of such stock is issued and the proceeds thereof expended shall, on or before the twenty-fifth day of each month, make verified report to the Commission in accordance with the Commission's General Order No. 24, which order, in so far as applicable, is made a part hereof.

Dated at San Francisco, California, this twelfth day of September, 1921.

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DECISION No. 9501.

IN THE MATTER OF THE APPLICATION OF ALBERS BROTHERS MILLING COMPANY TO MAKE CERTAIN CHANGES IN ITS WAREHOUSE TARIFF.

Application No. 6986.

Decided September 14, 1921.

BY THE COMMISSION.

OPINION AND ORDER.

This is an application of Albers Brothers Milling Company, under section 63 of the Public Utilities Act, for authority to file a new tariff and make effective certain changes in rates, rules and regulations as set forth in Exhibit "A," attached to and made a part of the application.

The proposed changes, as far as the general public is concerned, will result in technical increases, the applicant having transacted little or no business exclusive of its own, and it now desires to place the operation and rates of the warehouse on the same basis as applicable at Port Costa, Oakland and San Francisco. Applicant states that heretofore it has not engaged extensively in warehouse business at its mill, having used its warehouse facilities mainly for the accommodation of the Albers Brothers Milling Company's products, but that it now intends to engage in export business and may, therefore, store and handle grain and other commodities for the general public.

In view of the fact that the proposed changes will give to the public a service not previously enjoyed at rates identical with those applicable at other warehouses operated under similar conditions, the Commission is of the opinion that a public hearing is not necessary and that this application should be granted.

It is hereby ordered, that the Albers Brothers Milling Company be and the same is hereby authorized to publish and file, in accordance with rules and regulations of the Railroad Commission of the State of California, within ten (10) days from date hereof, the rates, rules and regulations as shown in Exhibit "A," attached to and made a part of the application.

Dated at San Francisco, California, this fourteenth day of September, 1921.

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DECISION No. 9504.

IN THE MATTER OF THE APPLICATION OF VALLEY TRANSIT COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE ADDITIONAL STOCK.

Application No. 7066.

Decided September 14, 1921.

Evarts, Ewing and Wild, by *M. K. Wild*, for Valley Transit Company.

ROWELL, *Commissioner*.

OPINION.

Valley Transit Company asks permission to issue $200,000 of common stock in payment for automobile equipment and other properties now owned by J. C. Walling and C. H. Alexander, copartners doing business under the firm name and style of Walling and Alexander, and by Carl A. Allen, J. C. Walling and C. H. Alexander, doing business under the name and style of Fresno-Kingsburg Stage Company.

Valley Transit Company was organized during April, 1920, with an authorized common capital stock of $50,000, divided into 500 shares of $100 each. There has been filed in this proceeding a copy of applicant's amended articles of incorporation which show that applicant's authorized stock issue has been increased from $50,000 to $250,000, divided into 2500 shares of $100 each and that all of said $250,000 of stock is common stock.

Applicant reports $50,000 of stock outstanding. This stock was issued under the authority granted in Decision No. 8838 in payment for properties purchased from J. C. Walling. At the present time applicant reports that it is the owner of the property pertaining to and used in connection with the stage line business between Fresno and Porterville, serving the intermediate points of Malaga, Fowler, Selma, Kingsburg, Traver, Goshen, Visalia, Farmersville, Exeter, Lindsay and Strathmore.

Walling and Alexander report in Application No. 7067 that they are engaged in the business of operating stage lines between Fresno and Madera, Madera and Merced, Fresno and Hanford and between Fresno and Bakersfield via Tulare. They have agreed to transfer their automobile equipment, consisting of twenty-five 11- to 18-passenger stages, twenty Whites, three Cadillacs and two Packards, a shop car, tires, tubes, accessories, garage equipment and office furniture and supplies, all of which is valued at $179,000. They have agreed to transfer the properties, which are listed in Schedule "C" filed in this proceeding, to Valley Transit Company in exchange for $179,000 of stock. The properties will be transferred to applicant free and clear of all encumbrances.

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The Fresno-Kingsburg Stage Company reports in Application No. 7068 that it is engaged in the business of operating a stage line between Fresno and Kingsburg and that it has agreed to sell its properties listed in Schedule "D," filed in this proceeding, to Valley Transit Company in exchange for $21,000 of stock. The properties consist of four 14-passenger White and one 14-passenger Oldsmobile automobiles. This equipment likewise will be transferred to applicant free and clear of all encumbrances.

It appears from the testimony that the acquisition of the properties now owned by Walling and Alexander and Fresno-Kingsburg Stage Company by applicant, will result in a more adequate service, in that the equipment can be more readily transferred from one run to another, and a reduction in operating expenses.

I herewith submit the following form of order:

ORDER.

Valley Transit Company having applied to the Railroad Commission for permission to issue $200,000 of common stock, a public hearing having been held and the Commission being of the opinion that the money, property, or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Valley Transit Company be and it is hereby authorized to issue on or before December 31, 1921, not exceeding $200,000 of its common capital stock in full payment for the properties listed in Schedule "C" and in Schedule "D," filed in this proceeding.

The authority herein granted is subject to further conditions as follows:

1. The properties listed in said Schedule "C" and in Schedule "D" must be transferred to applicant free and clear of all encumbrances. None of the indebtedness of Walling and Alexander or of Fresno-Kingsburg Stage Company may be assumed by applicant.

2. The consideration herein authorized to be paid for the properties listed in said Schedule "C" and Schedule "D" shall not be urged as a measure of value of the properties for rate-making or any purpose other than the transfer herein permitted.

3. Valley Transit Company shall keep such record of the issue and delivery of the stock as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of September, 1921.

DECISION No. 9505.

IN THE MATTER OF THE APPLICATION OF J. G. KIRKMAN, DOING BUSINESS UNDER THE NAME OF CENTRAL TELEPHONE COMPANY, FOR AUTHORITY TO INCREASE RATES FOR TELEPHONE SERVICE.

Application No. 6207.

Decided September 14, 1921.

TELEPHONE TOLLS—RATE OF RETURN.—Upon a showing that a utility, economically and efficiently conducted, could earn 11 per cent on its investment, an increase in rates will not be granted.

J. G. Kirkman, Applicant.

BY THE COMMISSION.

OPINION.

J. G. Kirkman, furnishing telephone service in the town of Exeter, California, and surrounding territory, under the name of Central Telephone Company, in Application No. 6207 asks the Commission's authority to increase his rates for telephone service, alleging that the increased cost of labor and material makes this authorization necessary to enable him to continue giving good service.

A hearing on the application was held in Exeter by Examiner Westover. Applicant submitted no data to substantiate his claims for needing an increase in rates other than general testimony to that effect. Our engineers, however, had made an investigation of the affairs of applicant and it was stipulated that their report, when completed, should be considered in evidence. This report has now been submitted.

An inventory and appraisal were made by our engineers. The inventory was made with the assistance of a company representative. The appraisal shows the operative property amounting to $30,177 and we use $30,000 as a rate base.

The operating revenue for the period ending November 30, 1920, amounted to $9,453. The expenses for the same period could not be determined since applicant's bookkeeping was both inadequate and inaccurate. Under the present rates, with the estimated increase in business indicated by records of the system's growth, applicant would receive, during the coming year, a gross revenue amounting to approximately $11,700, while the estimated expenses for the same period

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amount to $8,400, after making due allowance for increased expenses which our engineers recommend as being necessary to operate the system efficiently and economically. This would net applicant about 11 per cent upon his investment. It is apparent, therefore, that applicant should not be granted an increase in rates and we so order it.

ORDER.

J. G. Kirkman, owner of the telephone exchange at Exeter, California, having filed with the Commission his application for an increase in rates, a hearing having been held, the matter having been submitted and the Commission being fully advised, and it appearing to the Commission, as set forth in the preceding opinion, that an increase in petitioner's present rates is not justified;

It is hereby ordered, that the application herein be and it is hereby denied.

Dated at San Francisco, California, this fourteenth day of September, 1921.

DECISION NO. 9506.

IN THE MATTER OF THE APPLICATION OF RICE TRANSPORTATION COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF SIX THOUSAND THREE HUNDRED SHARES OF COMMON STOCK.

Application No. 7112.

Decided September 14, 1921.

George M. Pierson and *G. R. Cleveland,* for Applicant.

LOVELAND, *Commissioner.*

OPINION.

Rice Transportation Company asks permission to issue and sell at par $6,300 (6300 shares) of common stock and use the proceeds to acquire automobile equipment and terminal facilities.

Rice Transportation Company was organized in April, 1921, with an authorized issue of $100,000 of stock, divided into $50,000 of common and $50,000 of preferred. By Decision No. 9192, dated June 30, 1921, the Commission authorized applicant to issue $10,503 of its common stock. This stock is owned by G. R. Cleveland, R. B. Cleveland and Mary K. Crane. Applicant now asks permission to issue and sell at par to G. R. Cleveland $4,200 and to Mary K. Crane $2,100 of its common stock.

The testimony of G. R. Cleveland, applicant's president and general manager, shows that applicant should acquire additional equipment and also secure terminal facilities at Long Beach and at Venice or Santa

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Monica. Applicant has been engaged in its present truck business about four months. Its president reports that the gross operating revenues have amounted to about $3,500 per month and the operating expenses to about $2,750, leaving a net operating revenue of $750 per month. All of the net operating revenues have been used to pay indebtedness and to acquire additional property.

I herewith submit the following form of order:

ORDER.

Rice Transportation Company having applied to the Railroad Commission for permission to issue and sell at par $6,300 of common stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured by applicant through the issue of such stock is reasonably required by applicant and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Rice Transportation Company be and it is hereby authorized to issue, sell and deliver on or before April 1, 1922, at not less than par, $6,300 of its common capital stock and use the proceeds to acquire additional automobile equipment and terminal properties and facilities referred to in this application;

Provided, that applicant will keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of September, 1921.

DECISION No. 9513.

IN THE MATTER OF THE APPLICATION OF MOUNTAIN WATER COMPANY FOR AUTHORITY TO INCREASE ITS RATE SCHEDULE.

Application No. 6324.

IN THE MATTER OF THE APPLICATION OF MOUNTAIN WATER COMPANY FOR AUTHORITY TO AMEND ITS RULES AND REGULATIONS.

Application No. 6325.

Decided September 14, 1921.

WATER UTILITY—EXTRAVAGANT PER CAPITA CONSUMPTION.—A per capita consumption of 674 gallons daily held to be extravagant.

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MEASURED SERVICE.—The Commission reiterates its opinion that a measured service is the only proper one, as by it charges are equitably distributed and extravagance is reduced to a minimum.

F. H. Post, for Applicant.
James H. Howard, by *Roscoe R. Hess*, for City of Pasadena.

BRUNDIGE, *Commissioner*.

OPINION.

By stipulation the above proceedings were combined for hearing and decision.

Mountain Water Company, applicant herein, is a public utility water company furnishing water to consumers in and in the vicinity of Lamanda Park, Los Angeles County.

Applicant asks for authority to increase its rates for water service, alleging in effect that the income received from the present schedule of rates is not sufficient to pay labor or buy material for the successful prosecution of its duties as a public utility.

A public hearing was held in these matters at Los Angeles, of which hearing all of applicant's consumers were notified and given an opportunity to appear and be heard.

This utility has no pumping plant. Its water supply is obtained from a collecting tunnel at the mouth of Eaton Canyon and from the Pasadena Consolidated Water Company. A portion of the supply obtained from the Pasadena Consolidated Water Company is purchased, and the balance is obtained through ownership of stock in the Precipice Canyon Water Company, the Pasadena Consolidated Water Company acting as carrier. The water is transmitted by gravity some three miles to its points of use.

Of the two hundred consumers of this system, only forty-five are served through meters, the balance being served at flat rates. Study of the water used shows that the per capita consumption is approximately 674 gallons daily. This is a high and extravagant water consumption, and illustrates the effect of flat rates. A utility, in obtaining its water supply, is usually compelled to expend funds in proportion to the quantity of water obtained, as in the present instance. However, in serving at flat rates, it disposes of its supply by a schedule of rates which yield return only roughly proportionate to the amount of water served. This Commission has long been of the opinion that a measured service is the only proper one. By this means the charges are equitably distributed among the consumers, extravagance in use is reduced to a minimum, and water is conserved for those who are in need of it, obviating many complaints of inability to obtain service. It is to be hoped that this utility will soon find itself financially able to install meters throughout its system, that it and its consumers may receive the benefits which result from measured service.

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Applicant is confronted with a difficult situation with relation to the possible annexation of a large portion of the territory served by it to the city of Pasadena, in which event the city may at any time take over service to applicant's consumers in the territory annexed.

There was submitted with the application an appraisal of properties, showing an estimated original cost of $39,336.55. Testimony shows that this cost was not based on actual figures, and that it included much nonoperative property.

Mr. F. H. Van Hoesen, one of the Commission's engineers, after a field investigation, submitted a report including an appraisal and valuation of the used and useful properties of this utility, and a study of the cost of maintenance and operation. His appraisal shows the estimated original cost of the system, including stock in the Precipice Canyon Water Company, to be $27,837, and a replacement annuity of $283, computed by the 6 per cent sinking fund method. A fair and reasonable maintenance and operating expense for 1921 was estimated at $5,245. After a careful consideration of the evidence submitted, I am of the opinion that the estimates of the Commission's engineer are fair and reasonable, and they will be used for the purposes of this proceeding.

The following is a summary of the estimated annual charges as indicated above:

Return on $27,837 at 8 per cent	$2,227 00
Replacement annuity	283 00
Maintenance and operating expense	5,245 00
Total	$7,755 00

The total revenue received from this system for the year 1920 was $4,931.23, and there is no indication that any substantial increase in business can be expected during the coming year. It is, therefore, apparent that authority to increase the rates should be granted, and the schedule of rates established in the following order is designed to produce a sum sufficient to cover the cost of maintenance and operating expense, replacement annuity, and a reasonable return on the investment.

The Railroad Commission in its General Orders Nos. 15 and 45 requires all public utilities to file for its approval their rules and regulations. This eliminates the necessity of a formal order in the above entitled proceeding of Application No. 6325.

I submit the following form of order:

ORDER.

Mountain Water Company having applied to the Railroad Commission for authority to increase the rates for water served in and in the

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vicinity of Lamanda Park, Los Angeles County, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact, that the rates and charges of the Mountain Water Company, in so far as they differ from the rates herein established, are unjust and unremunerative, and that the rates and charges herein established are just and reasonable rates and charges.

And basing its order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Mountain Water Company be and it is hereby authorized and directed to file with the Railroad Commission of the State of California within twenty (20) days of the date of this order, the following schedule of rates, the rates so filed to be charged for all water delivered to its consumers on and after October 1, 1921, and on that date to be and become effective and supersede any and all rate schedules heretofore in effect or on file by the Mountain Water Company:

MONTHLY METER RATES.

For use from 0 to 1000 cubic feet, per 100 cubic feet	$0 30
From 1000 to 5000 cubic feet, per 100 cubic feet	25
All in excess of 5000 cubic feet, per 100 cubic feet	15

MONTHLY MINIMUM CHARGES.

For ⅝-inch by ¾-inch meter	$1 20
For ¾-inch meter	1 50
For 1 -inch meter	1 80
For 1½-inch meter	2 10
For 2 -inch meter	2 40
For 3 -inch meter	3 00

MONTHLY FLAT RATES.

1. Residences, boarding houses, apartments, lodging houses, tenements and flats of five rooms or less	$1 50
For each additional room	25
For each bathtub	25
For each toilet	25
Additional for each private garage and one automobile	25
For each additional automobile	25
Additional for private barn, with not more than two horses or cows	50
For each additional horse or cow	20
2. Sprinkling or irrigation of lawns, shrubbery, trees, garden, etc., per square yard	002
3. Blacksmith shop, machine shop, lumber yards, printing offices, bakeries, undertaking parlors, grocery stores, theaters, warehouses, butcher shops and large stores	2 00
4. Drug stores, dental offices and photograph galleries	3 50
5. Bottling works, creameries, slaughterhouses and laundries	5 00
6. Banks, professional offices, billiard parlors, fraternal halls, club rooms, churches, plumbing shops, stores and shops not otherwise listed	1 50
7. Office buildings, for each room	50
8. Restaurants, chophouses and cafes, per unit seating capacity	15
9. Livery stables and feed yards, per average number of stock fed, each	25
10. Barns in connection with stores, shops, etc., not more than two horses	50
For each additional horse	20

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11. Garages, six automobiles or less	3 00
For each additional automobile	50
12. Soda fountains and ice cream stands, either alone or in connection with other business	2 50
13. Barber shops, per chair	1 00
Additional for each bathtub	1 00
Additional for each toilet	50
14. Hotels:	
Dining room	2 00
Bedroom and running water	25
Each bathtub	50
Each toilet	30
15. Building work:	
For mortar and to dampen brick, per 1000 brick	35
For cement work, each barrel	15

It is hereby further ordered, that the Mountain Water Company be and it is hereby directed to file with the Railroad Commission within thirty (30) days from the date of this order, for its approval, amended rules and regulations governing the distribution of water to its consumers, said rules to become effective upon their approval.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of September, 1921.

DECISION No. 9514.

IN THE MATTER OF THE APPLICATION OF SWEETWATER WATER CORPORATION FOR AN INCREASE IN WATER RATES.

Application No. 6715.

E. MELVILLE, ET AL.,

vs.

SWEETWATER WATER CORPORATION.

Case No. 1627.

Decided September 14, 1921.

WATER UTILITY—SALE PRICE AS AFFECTING—RATE BASE.—Sale price of a utility while not conclusive or limiting in arriving at a rate base, should be given some weight.

EXTRAORDINARY EXPENDITURE—AMORTIZATION OF.—In addition to a reasonable maintenance and operating expense, an allowance is justified for the amortization of extraordinary expenses.

IRRIGATION DISTRICT—FORMATION OF.—In the present instance the Commission suggested that the consumers would be greatly benefited by the formation of an irrigation district.

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EXTENSION OF IRRIGATED AREA.—Ordered that further extension of the irrigated area be discontinued until additional facilities for increasing the water supply have been provided.

Gibson, Dunn and Crutcher, by *S. M. Haskins*, for Applicant and Defendant.
Edwin T. Smith, for Complainants and Protestants.
L. M. Harris, for the City of National City.
F. B. Andrews, for the City of Chula Vista..
Tyndale Palmer, in propria persona.

BENEDICT, *Commissioner.*

OPINION.

Sweetwater Water Corporation, supplying water for domestic, irrigation and manufacturing purposes to consumers in National City, Chula Vista and vicinity, asks permission to increase rates, alleging that its present revenues are not sufficient to pay maintenance and operation expense, depreciation annuity, and a reasonable return upon the fair value of the property.

The complaint of E. Melville and other consumers alleges that Sweetwater Water Corporation is now furnishing water to an area in excess of the safe yield of present storage facilities, and is thereby subjecting the complainants and other consumers to danger of an insufficient supply of water in dry years. The Commission is asked to order defendant to refrain from furnishing water for irrigation purposes to any persons or lands not now being supplied, and for such other and further relief as the Commission may deem just and proper.

By consent of all interested parties these two proceedings were consolidated for hearing and decision.

A public hearing was held in San Diego, at which all persons involved were given an opportunity to be present and be heard.

The present rate schedule, established by this Commission in 1919 by Decision No. 6286, and the rates desired by the applicant are as follows:

Items	Present rates	Rates desired
Monthly minimum charges:		
For ⅝-inch meter	$1 00	$1 50
For 1-inch meter	1 50	2 25
For 1½-inch meter	2 50	3 75
For 2-inch meter	4 00	6 00
For 3-inch meter	7 00	10 50
For 4-inch meter	12 00	18 00
For water used—per 100 cubic feet:		
Between 0 and 400 cubic feet	0 25	0 375
Between 400 and 2000 cubic feet	0 15	0 20
For irrigation use above 2000 cubic feet	0 03	0 06
For use above 2000 cubic feet for other than irrigation use	0 12	0 18

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This water system was originally constructed by the San Diego Land and Town Company, of Kansas, which also owned large tracts of land, to irrigate which the system was built. Construction was commenced in 1886 and the plant was operated by this company up to 1895, when the company went into the hands of a receiver, who managed the property until June 14, 1897. Then all the properties of the San Diego Land and Town Company of Kansas were sold by the receiver to a committee of the creditors for $889,163.33. This sale was approved by the court on July 7, 1897, and thereafter the creditors transferred the property to a corporation organized for that purpose, called the San Diego Land and Town Company, organized under the laws of the State of Maine. Later the last named corporation transferred the water system to Sweetwater Water Company, organized under the laws of the State of Maine. In 1920 the water system was transferred to Sweetwater Water Corporation, organized January 12, 1920, under the laws of the State of California.

The Sweetwater water system consists of the Sweetwater reservoir, of 31,000 acre-feet capacity, located about ten miles southeast of the city of San Diego, and impounds the run-off of the Sweetwater River, which has a drainage area of 186 square miles. The dam is a single arch masonry structure with a maximum height of 110 feet and a length of about 700 feet. From the dam two lines, one of 24-inch and one of 30-inch riveted steel transmission pipe, carry the water to the service area. This area includes the cities of National City and Chula Vista and the territory adjacent. The total length of both transmission mains is 11 miles. The distribution system consists very largely of pipes four inches in diameter or larger, with a total length of 78 miles. The system has about 1750 consumers, practically all of whom are metered.

The actual cost of construction of the water system, including water rights and other intangible values, as shown by the company's books, is $1,426,214. An examination of the various charges, however, indicates that in computing realized depreciation the company has not given itself proper credit for some of the pipe which is still in service. It is further apparent that some items of overhead costs have been omitted, and that very little, if any, interest during construction has been charged. The inclusion of such items of legitimate expense would bring the total actual cost of the system to a figure not far from $1,600,000.

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Appraisals were submitted by E. R. Bowen, for Sweetwater Water Corporation, and by F. M. Faude, one of the Commission's hydraulic engineers. These appraisals may be summarized as follows:

Items	E. R. Bowen for the Sweetwater Water Corporation	F. M. Faude for the Commission
Lands and physical structures	$1,788,230 00	$1,714,450 00
Water right values	497,000 00	----------
Going concern value	100,000 00	----------
Operating capital required	8,800 00	9,000 00
Totals	$2,394,030 00	$1,723,450 00

Mr. Bowen's values for lands and physical structures purport to be "historical values," while the values he assigns to water rights and going concern are admittedly estimates which bear no relation to actual costs. Mr. Faude's appraisal of lands, physical structures and intangible values, is an estimate of original cost.

In the determination of a reasonable rate base for this proceeding, the fact that on January 28, 1921, this entire property was offered for sale to a proposed irrigation district for $850,000, payable in bonds of the district, should be given some weight. The offer of sale distinctly states that "the price quoted is not to be taken in any sense as the valuation placed upon the property by the Sweetwater Water Corporation, or as expressing the corporation's idea as to what the property is actually worth," and that the "offer is made by the officers of the Sweetwater Water Corporation subject to the approval of the stockholders." I do not regard this line of evidence as conclusive or limiting, but, as stated before, it should be given some weight.

After a careful consideration of all the evidence, I am of the opinion that a reasonable rate base in this proceeding lies somewhere between $859,000 and $1,723,450, both figures including $9,000 for working capital. If the minimum and maximum limits be given equal weight the result will be approximately $1,300,000, including the necessary working capital.

The depreciation annuity calculated by the sinking fund method at 5 per cent is $13,455.

Maintenance and operating expense for the past three years with an estimate of reasonable expense for the immediate future, is as follows:

Maintenance and operating expense, 1918	$37,295 00
Maintenance and operating expense, 1919	36,418 00
Maintenance and operating expense, 1920	52,873 00
Reasonable expense for the future	50,400 00

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In addition to the foregoing reasonable maintenance and operating expense a further allowance should be made to provide for the amortization of certain extraordinary expenses incurred after the great flood of 1916, and in 1920 and 1921 due to the necessity for changing the location of pipe and services on account of paving of streets in the service area. Eight thousand five hundred dollars per annum for the next eight years is a reasonable allowance for this purpose.

Revenues from the sale of water for the past four years have been as follows:

1917	$86,008 00
1918	97,613 00
1919	104,899 00
1920	111,258 00

Material increases in revenues in the future can not be expected under the present rates, as the irrigated area has practically reached the limit of dependable water supply, which can not be increased without the expenditure of large sums of money to provide additional storage facilities.

Based upon the foregoing estimates of reasonable maintenance and operating expenses, depreciation annuity, allowance for the amortization of extraordinary expenses, and revenues received in 1920, the results of operation are as follows:

Revenues		$111,258 00
Expenses:		
Maintenance and operation	$50,460 00	
Depreciation annuity	13,455 00	
Amortization allowance	8,500 00	
Total expense		72,415 00
Net earnings		$38,843 00

These net earnings are equivalent to a 6 per cent return upon $647,383; a 7 per cent return upon $554,900; or an 8 per cent return upon $485,538, and indicate that the utility is entitled to an increase in rates.

Testimony shows that the present irrigation rates charged by applicant are considerably lower than those charged by other utilities in the southern part of the state which render a similar service.

Based upon the water use in 1920, the rates set out in the accompanying order will yield sufficient revenue to cover all items of expense and yield a reasonable return upon a fair rate base.

It is apparent that consumers under this system will benefit greatly by the formation of an irrigation district and the acquisition and operation of the property. While there are some difficulties in the

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way of such a procedure, they are, I believe, mainly caused by differences of opinion and misunderstanding. I am convinced that a reasonable spirit of give and take will result in the removal of the obstacles in the way of a project so greatly to be desired, in view of its manifold advantages.

Studies of the safe yield of the Sweetwater system were made by Mr. Bowen, for the company, and by C. H. Monett, one of the Commission's engineers. The results obtained were practically identical and indicate, when considered in connection with the area irrigated at present, that the limit of safe capacity of the system for irrigation use has been reached. Further extension of the irrigated area should be discontinued until additional facilities for increasing the water supply have been provided.

The utility has acquiesced in this conclusion, and has filed an amendment to its rules and regulations which will effectually control the situation and which is satisfactory to the complainants. The complaint can therefore be dismissed.

During the hearing complaint was made by a few consumers that, as a result of private plants which pumped direct from the mains, inadequate pressures were sometimes maintained on the higher levels of the service area. This condition can be materially improved by compelling the owners of such private pumping plants to provide a tank or sump from which to feed their pumps, and I recommend that the utility file and enforce a rule to this effect.

Other matters relating to rules and regulations were considered at the hearing and will be covered by amended rules which the utility will be ordered to file.

I submit the following order:

ORDER.

Sweetwater Water Corporation having made application for permission to increase rates for water delivered to consumers in National City, Chula Vista and vicinity, and E. Melville and others having made complaint against Sweetwater Water Corporation, a public hearing having been held thereon, and the Commission being fully advised in the matter:

It is hereby found as a fact that the rates now charged by Sweetwater Water Corporation for water supplied to its consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing its order upon the foregoing finding of fact and upon the statements of fact contained in the opinion preceding this order;

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It is hereby ordered, by the Railroad Commission of the State of California that Sweetwater Water Corporation be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following rates for water delivered to its consumers, effective for all service rendered subsequent to October 1, 1921:

Rate Schedule.

Monthly minimum charges:	
For ⅝-inch meter	$1 25
For ¾-inch meter	1 50
For 1-inch meter	2 00
For 1½-inch meter	3 00
For 2-inch meter	4 00
For 3-inch meter	7 00
For 4-inch meter	12 00
For water used per month—per 100 cubic feet:	
From 0 to 1000 cubic feet	25
From 1000 to 2000 cubic feet	15
Over 2000 cubic feet	05
For use above 2000 cubic feet for other than irrigation use	15
Fire hydrants—per month, each	2 00
Street or road sprinkling—per 100 cubic feet	15
Minimum charge for each sprinkling hydrant, per month	2 00

All other rates to remain in effect as at present.

It is hereby further ordered, that Sweetwater Water Corporation file with this Commission within sixty (60) days of the date of this order revised rules and regulations governing service of water to consumers; and

It is hereby further ordered, that the complaint in the above entitled proceeding be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of September, 1921.

DECISION No. 9516.

IN THE MATTER OF THE SERVICE AND RATES RENDERED BY SOUTHERN CALIFORNIA TELEPHONE COMPANY IN THE PALMS DISTRICT OF THE CITY OF LOS ANGELES AND IN CULVER CITY, LOS ANGELES COUNTY, CALIFORNIA.

Case No. 1538.

Decided September 14, 1921.

TELEPHONE TOLLS—RATES AND SERVICE—INVESTMENT IN PROPERTY.—When a utility, even in good faith, makes an investment involving changes in service and rates without having obtained permission of the Commission, it acted at its own hazard and the Commission must be guided solely by public interest.

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LOCAL SERVICE IN SELF-CONTAINED COMMUNITIES.—It is held fundamental in the interest of economy and service, that for self-contained and self-supporting communities, local service at local rates is of prime importance.

Arthur Wright, *James T. Shaw* and *Pillsbury, Madison and Sutro*, of counsel, for Southern California Telephone Company and The Pacific Telephone and Telegraph Company.

Jess E. Stephens and *H. Z. Osborne, Jr.*, for City of Los Angeles.

Marshall Stimson and Harry Culver, for Board of Trustees of Culver City and Culver City Chamber of Commerce.

Ingle Carpenter, for Ingle Studios, the Willatt Studio, J. Barker Reed and other producers.

A. N. Cross, of *Mott and Cross*, for Goldwyn Producing Corporation.

Warren Doane, for Hal Roach Studios.

W. H. Holmes, for Palms Chamber of Commerce.

BRUNDIGE AND ROWELL, *Commissioners*.

OPINION.

Southern California Telephone Company, owning and operating telephone exchanges in the city of Los Angeles and adjacent territory, having made informal application to the Railroad Commission for authority to establish an exchange in Culver City to meet a growing demand for telephone service in Culver City and the Palms district of the city of Los Angeles and to establish rates therefor, a question has arisen as to whether the proposed exchange should be established as a branch or multioffice of the Los Angeles exchange system, providing direct unlimited service with the Los Angeles exchange system at Los Angeles rates, or whether as a separate exchange providing unlimited local service at local rates contemplating the institution of toll service at toll rates between it and the Los Angeles exchange system. It appearing to the Commission that the issues here presented are such that they can not be disposed of satisfactorily through informal negotiations, this proceeding was instituted on motion of the Commission for formal determination and a public hearing was held in the city of Los Angeles on March 18, 1921.

It was proposed in the informal application of Southern California Telephone Company, contained in its letter of June 18, 1919, to establish its proposed exchange as a separate local exchange for local service at local rates and to make effective the long distance toll rates of The Pacific Telephone and Telegraph Company and the United States Long Distance Telephone and Telegraph Company for all service between it and all points beyond, including the territory served by the Los

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Angeles system. The rates therein proposed for the principal classes of exchange service were as follows:

	Rate per month Wall set	desk set
Business unlimited service:		
Individual line	$2 75	$3 00
Two-party line	2 25	2 50
Extension (with or without bell)	1 00	1 00
Suburban service (ten-party line)	3 50	3 75
Residence unlimited service:		
Individual line	2 25	2 50
Two-party line	2 00	2 25
Four-party line	1 75	2 00
Extension (without bell)	50	75
Extension (with bell)	65	1 00
Suburban service (ten-party line)	3 00	3 25

	Per month
Private branch exchange, business, commercial—unlimited service:	
Switchboard, etc., per position	$5 00
First bothway trunk line	4 75
Each additional bothway trunk line	3 50
Each incoming trunk line	4 00
Each station, other than outside, wall or desk set	1 00

The rates herein listed were intended to apply within what the company proposed to designate as a primary rate area, beyond which its uniform mileage rates were to apply in addition to the rates herein listed, except for suburban service and private branch exchange switchboards. The primary rate area herein referred to is shown in Exhibit No. 2 of Southern California Telephone Company, entered in this proceeding. The proposed toll rate for calls to and from Los Angeles is 10 cents for the first five minutes and 5 cents for each additional three minutes or fraction thereof for station to station messages. A rate for person to person messages was not provided for Los Angeles calls.

The present rates for Los Angeles exchange service of the classes listed above, exclusive of mileage charges from the present Los Angeles primary rate area and which subscribers or patrons located within Culver City and the Palms district would be required to pay if Los Angeles rates were made effective in Culver City and Palms, are as follows:

	Rate per month Wall set	desk set
Business unlimited service:		
Individual line	$6 25	$6 75
Two-party line	4 75	5 25
Extension sets	1 00	1 00
Suburban service (ten-party line)	3 00	3 00
Residence unlimited service:		
Individual line	2 50	2 75
Two-party line	2 25	2 50
Four-party line	1 75	2 00
Extension sets	1 00	1 00
Suburban service (ten-party line)	2 50	2 50

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Private branch exchange, business, commercial—unlimited service:	Per month
Switchboard, per position	$3 00
Power circuit	1 75
First bothway trunk line	8 00
Additional bothway trunk lines, each	7 00
Each receiving trunk line	5 00
Each sending trunk line	6 00
Each station (within building)	1 00

In addition to the Los Angeles exchange rates herein listed mileage charges, varying in amount according to the classes of service selected and according to the location of the subscribers' premises, would apply, the amount being computed on measurements from the present primary rate area at present uniform mileage rates as follows:

Individual lines, including private branch exchange trunk lines, 50 cents per month for each quarter mile or fraction thereof.
Two-party lines, 35 cents per month per quarter mile or fraction thereof.
Four-party lines, 25 cents per month per quarter mile or fraction thereof.

The present primary rate area of the Los Angeles exchange is shown in Exhibit No. 15, of Southern California Telephone Company entered in the proceeding in Application No. 6285.

If the Los Angeles rates herein referred to were made effective for Culver City and Palms subscribers, calls to and from Los Angeles would not be subject to the payment of the toll rate which is contemplated in the proposal of the telephone company for the establishment of a local exchange and exchange rates in the Culver City-Palms area. It will be seen from the foregoing that the Los Angeles rates, with the addition of mileage rates, are very much higher than the rates proposed by the telephone company for local exchange service at the proposed local exchange. As of March 4, 1921, there were eighty-six subscribers of various classes within the Culver City-Palms area receiving service from the Los Angeles exchange. Of this number twelve only are now paying Los Angeles rates plus mileage. The remaining seventy-two are paying Los Angeles rates without mileage. The aggregate amount of the monthly rates for this service is the approximate sum of $613, an average of approximately $7.14 per month per subscriber. If the proposed local exchange and local rates were established it is estimated that the average monthly local rate for the same subscribers would be $4.44, or $2.70 lower than the present average Los Angeles rate. There were also as of the same date, March 4, 1921, fifteen subscribers in this area receiving service from the Santa Monica exchange of the Santa Monica Bay Home Telephone Company, whom it was proposed to take over to the proposed Culver City-Palms exchange. The aggregate amount of these monthly rates is the sum of $51.50, an average of $3.43 per month per subscriber. The estimated average monthly rate for the same subscribers for the proposed Culver City local service

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is $2.38 per month, which is $1.05 per month lower than the present average rate for Santa Monica service. It has not been determined what the average rate, inclusive of mileage charges, for these subscribers for Los Angeles service would be, but it is apparent that it would be in excess of the present rate.

While it thus is shown that the proposed rates for service confined to the local Culver City-Palms exchange area are considerably lower than the rates now in effect for either Los Angeles or Santa Monica service, the chief contention of those protesting against the adoption of the proposed plan is that by far the greater use of the service is and will be to and from Los Angeles, and that, with the payment of toll charges on calls to and from Los Angeles in addition to the local rates, the cost of the service would be greatly in excess of what it would be for unlimited service at Los Angeles rates plus mileage. It is also urged by protestants that there is so little necessity for service between present subscribers in Culver City and Palms or those who desire telephones, on the one hand, and so great necessity for service between these districts and the city of Los Angeles, on the other hand, that a service confined to these districts would be comparatively of little or no value while it is of the utmost importance that service to and from Los Angeles be made available. This objection to the adoption of the company's plan came chiefly from those interested either directly or indirectly in the moving picture industry for which Culver City and the Palms is a center, but the same general view is also expressed by other protestants.

In support of the proposed plan for local rates for local service with toll rates for service to and from outside points Southern California Telephone Company urges that Culver City and Palms are separated from the city of Los Angeles by an area of considerable extent which is but sparsely built up and that although a part of Palms has been annexed by the city of Los Angeles, the district as a whole constitutes a separate and distinct community whose local development and interests require local telephone service apart from the city of Los Angeles; that to provide and maintain facilities to furnish the service with proper economy as to investment and as to rates commensurate with the service a separate local exchange should be established. It also points to the fact that for this purpose it some time ago purchased a location, erected a central office building and proceeded to install central office and other plant at an expenditure of approximately $50,000; that the abandonment of these plans and the substitution of Los Angeles service will result, not only in the loss of this investment, but in the rearrangement of its plant and rerouting of its lines with an estimated additional expenditure of approximately $80,000. While

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the company appears to have acted in good faith, even to the extent of its present investment in property, it should be noted that it has proceeded with these plans involving changes in service and in rates which, under the provisions of the Public Utilities Act of this state, it can not make legally effective except by an order of this Commission authorizing the changes to be made and this order the company did not seek in advance of the investment which it has made. Thus if the Commission finds that the public interest requires the alteration of those plans it must be guided by that fact even though the company may have proceeded in good faith to remedy a difficult situation.

Telephone service in Culver City and Palms, to the extent that it is now provided by Southern California Telephone Company, is the outcome of conditions which have developed with the growth of these communities and as it has been influenced and directed during their growth by the interests of competing telephone utilities, predecessors of the present company, which were variously serving this and adjacent territory prior to its organization. By reason of consolidations which have eliminated these competing interests the present company finds itself exclusively occupying the territory in which it now operates with the result that it is responsible for service which, during the existence of those competing interests, was divided between The Pacific Telephone and Telegraph Company and its predecessor, Sunset Telephone and Telegraph Company, serving the Culver City-Palms area, operating out of Los Angeles and Santa Monica, and the Home Telephone and Telegraph Company of Los Angeles. The service thus furnished at the present time varies considerably in character and extent, present facilities are inadequate to meet present requirements and the rates charged are characterized by a very considerable lack of uniformity. Thus the entire situation is one in which a complete adjustment is imperative. Numerous residents and business interests located in Culver City and Palms are without telephones and are unable now to secure them while, in other instances, service which is available is inadequate. The company is unable or unwilling to proceed with the work which it has started to provide relief and in the meantime its property and investment remain idle.

It is fundamental, of course, not alone in the interests of economy, but in order even to make possible the furnishing of telephone service at rates which otherwise would be so prohibitive as to defeat the purposes for which the service itself is intended, that in self-contained and self-supporting communities, local service at local rates designed to meet local requirements is a necessity of prime importance. It is obvious that the more service is extended between different communities the higher the rate must be to sustain it and if that rate be a flat

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rate to all users, those patrons having less necessity than others to use the service to the outside or distant communities must pay more in proportion to its use than the patrons whose necessity for its use is greater. There must of necessity be a limit to the extent to which such service at flat rates shall be extended. Beyond such limit each user should pay for his service in proportion as he may require it. The evidence in this case is largely to the effect, however, that Culver City and Palms are not wholly self-sustaining communities, or to the extent that other communities near or adjacent to the city of Los Angeles are self-sustaining, or to the extent that telephone service confined to the limitations of a local exchange will adequately serve their interests. It has been shown that as to the chief public interest of these communities, a local service will be of little if any value. On the other hand, it is shown that although there is, to some extent at least, a necessity for local service, the chief objection to its establishment on an independent local basis is the payment of toll charges for calls to and from Los Angeles and other outside points.

It is urged by some of those who are asking that Los Angeles service at Los Angeles rates be extended to these communities that the Los Angeles primary rate area within which Los Angeles rates, without the addition of established mileage charges apply, be so extended as to include Culver City and Palms. There are others who ask that it be so extended as to eliminate only such portion of the present mileage charges as the Commission may determine to be proper. So far as the primary rate area of the Los Angeles exchange is concerned this is a matter directly involving the rates of this company in the city of Los Angeles and one which can not be considered apart from its effect on those rates. There is now pending before the Commission an application of Southern California Telephone Company for authority to increase rates, one of the features of which is the establishment of a reasonable primary rate area for the Los Angeles exchange. It is proposed by the company in that proceeding to extend the present Los Angeles primary rate area in the direction of Culver City and Palms, the adoption of which will reduce the amount of mileage charges now applicable to Culver City and Palms subscribers who are receiving Los Angeles service at Los Angeles rates. Except to the extent that the extension thus proposed by the company should be considered in the present proceeding, the determination of this matter in so far as its relation to Culver City and Palms is concerned must await a decision in the Los Angeles rate proceeding.

In this case, as in a few others which have been before this Commission recently, the telephone company has offered to extend in par-

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ticular instances what it refers to as extraterritorial service for subscribers whose particular service requirements extend beyond the limitations of local exchange service. Under this plan, if the telephone company is satisfied that the subscriber actually requires this extraterritorial service and if he will not permit its unauthorized use to evade the payment of toll charges, and, if in addition to paying the prevailing extraterritorial rate at the exchange with which it is to connect, he will also subscribe to the local service, he may secure it. In this instance the total cost of such service to Los Angeles, Culver City and Palms would be the Los Angeles rate for the class of service selected, plus a mileage charge covering the mileage between the Los Angeles primary rate area and the subscribers' premises, plus the Culver City-Palms local rate. It is conceivable that a rule of this character may suffice to overcome some of the objection that may be advanced to local service, but it is itself possessed of more or less dangerous or objectionable features and we are not convinced that it offers a final solution to the difficulties that it is designed to meet.

We can not agree in the view that there is the same justification for the present establishment of a separate local exchange for Culver City and Palms that there undoubtedly is in other cases. Neither are we convinced that such modification of the company's plans under which it has heretofore proceeded to provide for its proposed Culver City-Palms exchange as may be necessary to conform to our views in this instance will necessarily involve it in the serious loss to which it has referred. Whether a separate exchange were established as it now urges for these communities, or whether they were considered as an integral part of the Los Angeles exchange, undoubtedly it is probable, as the evidence shows, that the plant already provided will be utilized. It may well be that provision for unlimited service to and from Los Angeles will create, and as the company's business increases in Culver City and Palms, there will be created a necessity for facilities in excess of those provided for in the original plan, but eventually it no-doubt would have become necessary to provide an additional central office and associated plant, even if it had not been so provided in the original plans.

It is true if this company were to be required to provide direct subscribers' lines from its Los Angeles exchange in order to satisfy the demand of Culver City and Palms subscribers that the investment involved would be very considerable and the cost of maintenance and operation would be high. Furthermore, it does not seem to the Commission that the direct service which would thus be made available would be materially superior to that which would be available if subscribers' lines were terminated in the proposed local office in Culver

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City with sufficient interexchange trunk lines to carry the Los Angeles traffic. In view of this and in view of the preparations already made by the company, to abandon which would seriously delay the further installation of service, we are disposed to feel that for the present the company should exercise its discretion in the matter of routing its lines between the Culver City-Palms area and its Los Angeles exchange in so far as compliance with the order in this case will admit.

For a number of years, and particularly within recent years, growth in the city of Los Angeles and its environs has been so phenomenal as to greatly exceed the plans heretofore made by telephone companies to provide service. This growth still continues and in those sections west and southwest of the city, including that in which Culver City and Palms are located, it appears to be most pronounced and rapid at the present time. With the increased demands for telephone service and with the changed conditions following this growth it is not improbable that present methods for providing facilities and present methods of operation will become more or less changed. In that event and to that extent the present service requirements of Culver City and Palms will be altered.

It is our opinion that in the present situation Southern California Telephone Company should proceed at once to place its Culver City-Palms exchange in service and provide service under two separate rate schedules, one on the basis of the rates appearing in the following order for unlimited service to and from the Los Angeles exchange, the other on the basis of rates for unlimited service within the Culver City-Palms local exchange, with toll charges, in addition, for all messages to and from all points beyond the local exchange. The rates appearing in the order herein for unlimited service to and from Los Angeles are determined by adding to the present Los Angeles base rates the company's present standard mileage rates computed on direct measurement between the Culver City-Palms central office and the nearest point in the proposed primary rate area of the Los Angeles exchange as the company proposes to establish it. With these two separate rate schedules in effect, the principal purpose of which is to make either the Los Angeles service or the local service available at the option of the subscriber, the question as to which service is in the public interest will automatically take care of itself. The following order is recommended:

ORDER.

Proceedings in the above entitled matter having been instituted on the Commission's own motion, the case having been heard, the Com-

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mission being fully advised and the matter having been submitted, the Commission hereby finds as follows:

1. That public convenience and necessity require the establishment and maintenance of adequate telephone service in Culver City and Palms, Los Angeles County, California.

2. That there is a sufficient present community interest between Culver City and the city of Los Angeles, and between Palms and the city of Los Angeles, to justify and require the establishment and maintenance of interexchange telephone service between Culver City and Palms and the city of Los Angeles.

Basing its conclusions on the foregoing findings and on the other findings referred to in the opinion preceding this order;

It is hereby ordered and directed, as follows:

Southern California Telephone Company shall at once proceed with the construction and installation of such plant and equipment, if any, in addition to that at present available for the purpose and shall, within a period not to exceed ninety (90) days from the date of this order, complete such construction and installation and place in service a local central office telephone exchange in the Culver City and Palms area, unless, for good cause shown, the Commission may grant such extension of time as to it may appear to be reasonable and proper, and may issue its supplemental order herein providing therefor, and shall thereafter establish and maintain local exchange service and interexchange service under the conditions and subject to the rates hereinafter set forth, as follows:

A. Unless, for good cause shown, the Commission may grant an extension of time for the completion of the construction and installation of plant and equipment and the establishment of service as hereinabove provided, Southern California Telephone Company shall publish, file with the Railroad Commission and make effective on or before ninety (90) days from the date of the order herein, two separate schedules of rates as hereinafter provided. In the event that the Commission may extend the time for the establishment of service as herein provided, then the date, on or before which the rates herein provided for shall be published, filed and made effective, shall be correspondingly extended.

B. Subscribers and applicants for service shall be given the choice and option of either one of two schedules of rates and shall be entitled to the service for which the particular rate schedule selected shall pro-

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vide. The schedules of rates herein provided for and the service to which the subscribers shall be entitled thereunder, shall be as follows:

1. Local Culver City-Palms Unlimited Exchange Service.

Class of service.	Rate per month Wall set	desk set
Business unlimited:		
Individual line	$2 75	$3 00
Two-party line	2 25	2 50
Extension (with bell)	1 00	1 00
Extension (without bell)	1 00	1 00
Suburban service	3 50	3 75
Residence unlimited:		
Individual line	2 25	2 50
Two-party line	2 00	2 25
Four-party line	1 75	2 00
Extension (with bell)	65	1 00
Extension (without bell)	50	75
Suburban service	3 00	3 25

The above rates cover the principal classes of service only. Supplemental schedules covering rates for miscellaneous equipment and rates for other classes of service not included in the above schedule shall be filed with the Commission within the time hereinabove provided for the filing of rates subject to the further approval of the Commission. The primary rate area of the Culver City-Palms exchange, within which the base rates hereinabove provided for shall be made applicable and the exchange area to be served by the Culver City-Palms exchange, shall be as set forth in Exhibit No. 2 of Southern California Telephone Company entered in this case. Mileage rates for subscribers located beyond the primary rate area of the Culver City-Palms local exchange and within the exchange area of said exchange applicable to one- two- and four-party service shall be charged as follows:

	Per month
One-party line, for each quarter mile or fraction thereof	50 cents
Two-party line, for each quarter mile or fraction thereof	35 cents
Four-party line, for each quarter mile or fraction thereof	25 cents

Subscribers electing to take service under Schedule No. 1 shall be entitled to unlimited service with all other subscribers of the Culver City-Palms local exchange, inclusive of those taking service under Schedule No. 2 hereinafter appearing. For all messages to and from stations other than those served directly from the local exchange subscribers electing to take service under Schedule No. 1 shall pay the authorized toll rates applicable thereto.

2. Unlimited Los Angeles Exchange Service.

Subject to such alteration therein or modifictaion thereof as may be provided for in the decision of this Commission in Application No. 6285 of Southern California Telephone Company, the following rates shall be made effective for unlimited service between subscribers of the Culver City-Palms exchange and subscribers of the Los Angeles exchange.

	Rate per month Wall set	desk set
Business unlimited service:		
Individual line	$10 75	$11 25
Two-party line	7 90	8 40
Extension sets	1 00	1 00
Suburban service (ten-party line)	3 00	3 00
Residence unlimited service:		
Individual line	7 00	7 25
Two-party line	5 40	5 65
Four-party line	4 00	4 25
Extension sets	1 00	1 00
Suburban service (ten-party line)	2 50	2 50

The above rates cover the principal classes of service only. Supplemental schedules covering rates for miscellaneous equipment and rates for other classes of service

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not included in the above schedule shall be filed with the Commission within the time hereinabove provided for the filing of rates, subject to the further approval of the Commission. The primary rate area within which the rates herein provided shall apply and the mileage rates which in addition thereto shall apply for subscribers located outside of such primary rate area shall be as provided in Schedule No. 1 hereinabove set forth.

Subscribers electing to take service under Schedule No. 2 shall be entitled to unlimited service with all other subscribers of the Culver City-Palms exchange, inclusive of those taking service under Schedule No. 1, and with subscribers of the Los Angeles exchange. For all messages to and from all stations other than those served directly from the local exchange or the Los Angeles exchange subscribers electing to take service under Schedule No. 2 shall pay the authorized toll rates applicable thereto.

3. Long Distance, Telephone Toll and Telegraph Rates.

Except that subscribers receiving service under Schedule No. 2 shall be entitled to unlimited Los Angeles service without the payment of toll charges, in addition to the base rates provided in Schedule No. 2, the rates for long distance telephone toll and telegraph service for Culver City-Palms subscribers shall be computed as Culver City-Palms rates, in accordance with the authorized standard toll and telegraph schedules of Southern California Telephone Company, The Pacific Telephone and Telegraph Company and United States Long Distance Telephone and Telegraph Company.

4. Rules and Regulations.

The authorized Rules and Regulations of Southern California Telephone Company shall apply in the Culver City-Palms exchange.

The order herein made is limited to this particular case and is not to be taken as a precedent to be followed in other cases.

The opinion and order herein are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of September, 1921.

DECISION No. 9517.

IN THE MATTER OF THE APPLICATION OF STAR AUTO STAGE COMPANY, A CORPORATION, FOR A PERMIT AUTHORIZING SAID COMPANY TO ISSUE TREASURY STOCK.

Application No. 6843.

Decided September 14, 1921.

Harry A. Encell, for Applicant.

MARTIN, *Commissioner.*

OPINION.

In this application, as amended at the hearing, Star Auto Stage Company, now California Transit Company, asks permission to issue its common capital stock for the purpose of paying the purchase price

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of automobile equipment. The company requests permission to issue such an amount of its common capital stock, as at 75 per cent of par value, will equal the reported purchase price of $139,250.

In exhibit "1," as amended, applicant reports that since December 24, 1920, it has purchased or has contracted for the purchase of the following automobiles:

December 24, 1920	1	48-horsepower Pierce-Arrow,	20-passenger	$8,000 00
December 24, 1920	1	45-horsepower White,	14-passenger	7,500 00
December 31, 1920	1	15-45-horsepower White,	18-passenger	8,500 00
January 16, 1921	1	30-horsepower White,	14-passenger	7,000 00
February 26, 1921	1	45-horsepower White,	18-passenger	7,500 00
March 4, 1921	1	45-horsepower White,	18-passenger	7,500 00
March 12, 1921	1	48-horsepower Packard,	14-passenger	5,500 00
March 25, 1921	1	45-horsepower White,	15-passenger	5,250 00
April 4, 1921	1	45-horsepower White,	18-passenger	7,500 00
April 8, 1921	1	45-horsepower White,	18-passenger	7,500 00
April 8, 1921	1	45-horsepower White,	18-passenger	7,500 00
May 14, 1921		Twin-Six Packard, 14-passenger; chassis owned by applicant; rebuilt and lengthened by California Body Building Company		4,000 00
June 17, 1921	1	48-horsepower Pierce-Arrow,	14-passenger	6,500 00
July 1, 1921	1	15-45-horsepower White,	18-passenger	8,500 00
July 2, 1921	1	15-45-horsepower White,	18-passenger	8,500 00
July 3, 1921	1	15-45-horsepower White,	18-passenger	8,500 00
To be delivered	1	48-horsepower Pierce-Arrow,	14-passenger	7,000 00
To be delivered	2	15-45-horsepower Whites,		17,000 00
Total				$139,250 00

The testimony of W. E. Travis, applicant's president and general manager, shows that applicant in order to give adequate service, found it necessary to make arrangements to secure the above equipment. He further testified that the figures represent the value of the equipment at the time it was purchased. Applicant asks permission to issue common stock as at $75 per share will net $139,250. This would call for the issue of $185,600 of stock, or $46,350 par value of stock more than the reported value of the equipment. I do not believe that such a discount should be allowed. The order herein will permit applicant to issue not exceeding $163,800 of common stock in payment for the equipment referred to in this application, such equipment to be acquired free and clear of all encumbrances. It has been urged that the Commission should allow the issue of the stock at $75 because it is possible to acquire outstanding stock at $65 per share. Considering the history of these properties and that of the stage business in general, I am not convinced that the price at which the outstanding stock of applicant may be acquired should govern the Commission in fixing the minimum price at which it will permit the stock to be issued.

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I herewith submit the following form of order:

ORDER.

Star Auto Stage Company, now California Transit Company, having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified herein, and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that California Transit Company, formerly Star Auto Stage Company, be and it is hereby authorized to issue on or before December 31, 1921, $163,800 of its common capital stock in full payment for the properties described in the opinion preceding this order;

Provided, that none of said stock be issued unless all the equipment referred to is transferred to applicant as fully paid for, in exchange for said stock; and

Provided, further, that California Transit Company will keep such record of the issue of the stock herein authorized and of the disposition thereof as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of September, 1921.

DECISION NO. 9518.

IN THE MATTER OF THE APPLICATION OF STAR AUTO STAGE COMPANY, A CORPORATION, FOR A PERMIT AUTHORIZING SAID CORPORATION TO ISSUE TREASURY STOCK.

Application No. 6471.

Decided September 14, 1921.

Harry A. Encell, for Applicant.

MARTIN, *Commissioner.*

FIRST SUPPLEMENTAL OPINION.

Star Auto Stage Company, in its first supplemental petition in the above entitled matter, asks permission to issue approximately $14,000

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of its capital stock in addition to the $100,000 of capital stock heretofore authorized to be issued by Decision No. 8749, dated March 15, 1921.

In the original application, applicant asked permission to issue $50,000 of common stock at $85 per share to pay for equipment which W. E. Travis purchased from Clarence L. Simonds and George S. Held. In the supplemental application it is alleged that the original application was in error and that the Star Auto Stage Company agreed to acquire the equipment at a cost of $50,000 and to issue to W. E. Travis common capital stock in such an amount as at $85 per share will net $50,000. The Commission in Decision No. 8749 authorized the issue of $50,000 of stock at $86.60 per share. The records of the company have been examined and are in accord with the supplemental application except that they show that the company agreed to issue to W. E. Travis stock at $86 per share instead of $85. Applicant asks the Commission to reduce the price at which the stock may be issued from $86.60 per share to $85 per share. This request of the company will not be granted. The order will permit the issue of $12,000 of additional stock to pay for the equipment which W. E. Travis purchased from Clarence L. Simonds and George S. Held.

I herewith submit the following supplemental order:

FIRST SUPPLEMENTAL ORDER.

Star Auto Stage Company, now California Transit Company, having applied to the Railroad Commission for permission to issue stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that California Transit Company, formerly Star Auto Stage Company, be and it is hereby authorized to issue $12,000 of its common capital stock in addition to the $100,000 of stock heretofore authorized to be issued by Decision No. 8749, dated March 15, 1921, for the purpose of paying the remainder of the purchase price of the equipment referred to in the supplemental application filed in the above entitled matter.

It is hereby further ordered, that the order in Decision No. 8749, dated March 15, 1921, shall remain in full force and effect, except as modified by this first supplemental order.

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The foregoing first supplemental opinion and order are hereby approved and ordered filed as the first supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of September, 1921.

DECISION No. 9528.

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN HOME TELEPHONE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING SAID COMPANY TO ISSUE ITS PROMISSORY NOTE OR NOTES IN THE AGGREGATE AMOUNT OF TEN THOUSAND DOLLARS.

Application No. 7181.

Decided September 19, 1921.

Max Thelen, for Applicant.

MARTIN, *Commissioner*.

OPINION.

Southwestern Home Telephone Company asks permission to issue a two-year $10,000 note bearing interest at not exceeding 7 per cent per annum and to issue and deposit as collateral to secure the payment of the note $20,000 of its first mortgage 5 per cent bonds.

Charles A. Rolfe, president of the Southwestern Home Telephone Company, testified that the company intended to use $5,485.65 of the proceeds to refund indebtedness and $4,513.35 to pay the cost of new construction or indebtedness incurred on account of new construction. He reports that it has been necessary for the company to install a new switchboard at Hemet at an approximate cost of $2,500 and that it is necessary for applicant to increase its switchboard facilities at Banning and move the Banning exchange into larger quarters. He estimates the cost of the additional switchboard facilities at Banning at about $1,000 and the cost of installing the switchboard and certain other improvements at $1,250, making a total of $2,250.

I herewith submit the following form of order:

ORDER.

Southwestern Home Telephone Company having applied to the Railroad Commission for permission to issue $10,000 of notes and issue and deposit $20,000 of bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such note is reasonably required by applicant and that this application should be granted subject to the terms of this order;

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It is hereby ordered, that Southwestern Home Telephone Company be and it is hereby authorized to issue a two-year $10,000 note bearing interest at not exceeding 7 per cent per annum and to issue and deposit as collateral to secure the payment of the note $20,000 face value of its first mortgage 5 per cent bonds.

The authority herein granted is subject to further conditions, as follows:

1. Applicant may, if it finds it necessary in securing the $10,000 loan, to issue one or more notes and to issue such note or notes for a term of less than two years. If the note or notes are originally issued for a term of less than two years, such note or notes may be renewed from time to time provided that the term of the original note or notes and the term of all renewals thereof, does not exceed two years from the date of the original note or notes.

2. The proceeds realized through the issue of the note or notes herein authorized shall be used for the following purposes:

(1) To pay the First National Bank of Redlands, trustee, under the agreement between applicant and certain of its bondholders; to complete payment due under said agreement for 1921	$5,485 65
(2) To finance the cost of the installation of a new switchboard at Hemet and a new switchboard at Banning, together with other improvements	4,514 35
Total	$10,000 00

3. As payments are made by applicant on the note or notes herein authorized to be issued, a proper proportion of the bonds pledged as collateral shall be returned to applicant's treasury and thereafter not issued except as authorized by the Railroad Commission.

4. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

5. Southwestern Home Telephone Company shall keep such record of the issue and sale of the note or notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this nineteenth day of September, 1921.

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DECISION NO. 9529.

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN HOME TELEPHONE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING SAID COMPANY TO ISSUE PROMISSORY NOTES OF THE TOTAL FACE VALUE OF FIFTY THOUSAND FIVE HUNDRED DOLLARS.

Application No. 7180.

Decided September 19, 1921.

Max Thelen, for Applicant.

MARTIN, *Commissioner*.

OPINION.

Southwestern Home Telephone Company asks permission to issue $50,500 face value of 6 per cent notes for the purpose of refunding notes now outstanding and to pledge bonds to secure the payment of the notes.

The Railroad Commission by Decision No. 5057, dated January 18, 1918 (Vol. 15, Opinions and Orders of the Railroad Commission of California, p. 44), authorized applicant to issue $89,050 of two-year 6 per cent notes and to issue and deposit $177,500 of bonds to secure the payment of the notes. The testimony in this proceeding shows that applicant has paid $38,550 of the notes and that there remains a balance of $50,500 due. The testimony further shows that as payments have been made a proper proportion of the bonds, which the Commission has heretofore authorized to be deposited as collateral, has been returned to applicant.

The notes now outstanding have been issued under an agreement effective 1918, by the terms of which the company is obligated to pay annually a certain amount of the notes. The necessary funds are obtained through the payment of an annual stockholders' assessment of not less than $2,000 for a period of ten years; through the appropriation of net earnings in the sum of $2,000 annually for a period of three years and $3,000 annually for a period of seven years; through the waiver for a period of ten years of the sinking fund provision of the trust deed securing the payment of the Southwestern Home Telephone Company bonds; through the postponement of the collection of the April interest coupons attached to said bonds and through the reduction of the annual interest on applicant's outstanding notes from 7 and 8 per cent to 6 per cent per annum. Inasmuch as the agreement between applicant's stock, bond and noteholders terminates on April 1, 1927, applicant asks permission to issue notes that will run concurrently with the life of the agreement. I believe that

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applicant's request should be granted and herewith submit the following form of order:

ORDER.

Southwestern Home Telephone Company having asked permission to issue $50,500 of 6 per cent notes and to pledge bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required by applicant and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Southwestern Home Telephone Company be and it is hereby authorized to issue $50,500 face value of 6 per cent notes payable on or before April 1, 1927, for the purpose of refunding the notes referred to in this application.

It is further ordered, that the bonds now deposited as collateral to secure the payment of the notes which applicant intends to refund may be deposited as collateral to secure the payment of the notes issued under the authority herein granted, said bonds, however, to be deposited subject to the terms and conditions of Decision No. 5081, dated January 29, 1918.

It is further ordered, that if applicant issues a note or notes payable prior to April 1, 1927, such note or notes may be renewed from time to time provided that no note issued in renewal may mature subsequent to April 1, 1927. Applicant may cancel any note payable April 1, 1927, and issue one or more notes in lieu thereof in accordance with the authority herein granted.

Applicant shall file monthly reports with the Commission as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this nineteenth day of September, 1921.

DECISION No. 9530.

IN THE MATTER OF THE APPLICATION OF J. H. RICHARDSON, PROPRIETOR OF RICHARDSON SPRINGS, FOR AUTHORIZATION TO ADJUST INTERCHANGE OF SERVICE BETWEEN THE LINES OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY AND HIS PRIVATELY OWNED LINE RUNNING BETWEEN CHICO, CALIFORNIA, AND RICHARDSON SPRINGS.

Application No. 6903.

Decided September 19, 1921.

TELEPHONE TOLLS—DISCRIMINATION.—Discrimination held to exist when a privately owned subscriber's line, enjoying unlimited service with an exchange

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of the Pacific Telephone and Telegraph Company, is used by the public upon the payment of switching charges. System ordered discontinued and line converted into toll line, applying charges to all calls without discrimination.

Lee Richardson, for Applicant.
E. J. Fisher, for The Pacific Telephone and Telegraph Company.

BY THE COMMISSION.

OPINION.

J. H. Richardson applies hereby for authority to adjust telephone rates between Richardson Springs and Chico.

A public hearing upon the application was held by Examiner Westover at Chico.

It appears from the testimony that applicant owns and operates a health resort, known as Richardson Springs, near Chico, in Butte County. A number of years ago he constructed a telephone line between the Springs and Chico, connecting his line with the Chico exchange of The Pacific Telephone and Telegraph Company, which serves Chico and vicinity as part of its system extending over the Pacific states. His line was built for his own convenience in the conduct of his health resort, and for the convenience of his patrons and of the public. For the use of this line by the public and to assist in meeting the cost of its operation and upkeep, applicant has heretofore had in effect a flat charge of 25 cents for each message passing over it. It having been called to applicant's notice that discrimination existed in the manner of operating this line and in the manner of collecting this charge, applicant filed the present application for authority to change his method of operation and to adjust the present charge. The adoption of the charge or rate now proposed will in certain instances result in increasing the present charge or rate and for this reason the formal application was set for public hearing.

As this line is now operated, it is a privately owned subscriber's line although devoted to public use. For the connection at Chico, applicant pays a subscriber's rate to The Pacific Telephone and Telegraph Company as a subscriber of the Chico exchange, which entitled him to unlimited service between Richardson Springs and other subscribers of the exchange. He also maintains a business office in Chico in which he has a telephone connecting with the Chico exchange as a subscriber's telephone, between which and other subscribers' stations of the exchange he has access to unlimited service. Between these two telephones and from either of them to other subscribers' stations of the Chico exchange, applicant and his employees now have unlimited service without the payment of the present 25-cent charge to which other Chico subscribers' stations within the exchange are subject when calling to or from Richardson Springs. In a similar way, the long

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distance toll rates between Richardson Springs, now a Chico subscriber's station, and points beyond Chico, when calls are placed by applicant or his employees, are 25 cents lower than the long distance toll rates between the same points when placed by others, and, when placed by others, they are 25 cents higher than the rates between other Chico subscribers' stations and points beyond Chico.

The plan of adjustment proposed is to discontinue the operation of the Richardson Springs telephone as a subscriber's station and to convert the line into a toll line, applying toll charges to all calls without discrimination. As to the proposed toll rate, authority is desired to make the following rates effective:

Conversation Rates.

	Initial		Overtime	
	Rate	Period	Rate	Period
Station-to-station calls	$0 10	5 minutes	$0 05	3 minutes
Person-to-person calls	15	3 minutes	05	1 minute
Appointment and messenger calls	20	3 minutes	05	1 minute

Report charge for person-to-person and appointment and messenger calls, 5 cents

Telegraph Rates.

Telegrams---30 cents for 10 words or less, 2½ cents each additional word
Day letters---45 cents for 50 words or less, 9 cents each additional 10 words or less
Night letters--30 cents for 50 words or less, 6 cents each additional 10 words or less

It will be seen that the initial rates herein proposed are lower than the present rate of 25 cents for unlimited conversations. It will be seen also that rates of 10 cents for five minutes and 5 cents for each additional three minutes conversation for station-to-station calls, 15 cents for three minutes and 5 cents for each additional minute for person-to-person calls and 20 cents for three minutes and 5 cents for each additional minute for appointment and messenger calls are offered. Thus on station-to-station calls not exceeding eleven minutes duration, person-to-person calls not exceeding four minutes duration and appointment and messenger calls not exceeding three minutes duration, the proposed rates will amount to a reduction from the present rate. On the other hand, under any of the proposed conversation rates, for conversations the duration of which may be in excess of those just referred to the charge will be the same as or in excess of the present rate. It is our opinion, however, that for the average conversation the proposed rates will result in a reduction of the present rate. Applicant has not heretofore filed a rate for telegrams. There was no protest against the proposed rates.

The discrimination heretofore existing should of course be removed. The rates proposed by applicant will accomplish its removal and they are uniform with the rates at present in effect elsewhere for similar service. The method under which applicant's line has been operated heretofore, a method more or less common in the operation of privately

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owned telephone lines held out to public use and connecting with the telephone system of The Pacific Telephone and Telegraph Company and other telephone companies in this state is illogical and in the public interest should be changed. The Pacific Telephone and Telegraph Company has consented to the proposed change, in so far as the conversion from a subscribers' line to a toll line is concerned, and has expressed its willingness to enter into a suitable agreement with applicant for the interchange of service between its system and applicant's line. Under the circumstances it is our opinion that the application should be granted.

ORDER.

J. H. Richardson, owning and operating a telephone line between Richardson Springs and Chico, Butte County, having applied to the Railroad Commission for authority to adjust rates, a public hearing having been held, the Commission being fully apprised and it appearing that the application should be granted:

It is hereby ordered, that applicant be and he is hereby authorized to publish, file with the Railroad Commission and make effective on and after October 1, 1921, the schedule of rates set forth in the opinion preceding this order.

Dated at San Francisco, California, this nineteenth day of September, 1921.

DECISION NO. 9532.

IN THE MATTER OF THE APPLICATION OF DR. C. EDGAR SMITH TO SELL PUBLIC UTILITY WATER SYSTEM TO M. J. MILLER, AND FOR M. J. MILLER TO PURCHASE SAID PUBLIC UTILITY WATER SYSTEM.

Application No. 6234.

Decided September 19, 1921.

G. D. Meikeljohn, for Dr. C. Edgar Smith.
H. B. Cornell, for M. J. Miller.

BY THE COMMISSION.

OPINION.

Dr. C. Edgar Smith and M. J. Miller join in the above entitled application for authority to transfer a domestic water system supplying consumers in a tract known as Sunnyside Garden Acres in Los Angeles County, California.

A public hearing was held upon the application by Examiner Westover in Los Angeles, of which all interested parties were notified and given an opportunity to be present and be heard.

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This utility has been before the Commission in another proceeding, namely, Case No. 1292, entitled, *Francis R. Schmitt et al.* vs. *Emil Firth and Dr. Edgar Smith*. This was a complaint brought by certain water users alleging inadequate service due to the excessive waste from badly deteriorated and leaky mains. In its Decision No. 6220 in the above entitled matter issued March 24, 1919, page 588, Vol. 16, Opinions and Orders of the Railroad Commission of California, the Commission ordered the complaint dismissed in so far as it related to Defendant Emil Firth, but ordered Defendant Charles Edgar Smith to file with the Commission for its approval plans and specifications for the reconstruction of the distribution system. It was further ordered that upon approval of these plans Defendant Smith was to proceed to reconstruct and repair the system as provided in the approved plans, the said repairs to be complete on or before May 15, 1919.

These plans and specifications were finally submitted on May 17, 1919, after additional time had been requested by Defendant Smith and granted by the Commission, and defendant proceeded with the installation of the improvements. There was considerable delay with the installation and upon investigation it developed that certain of the pipe lines installed were of poor quality and in an unsatisfactory condition, and resulted finally in making a further investigation advisable. Accordingly, a further hearing was held in this matter and evidence taken, which disclosed the fact that certain of the pipe lines installed by defendant were of such poor quality that unsatisfactory service conditions would inevitably ensue, and, further, that there were other improvements necessary in order that the Commission's requirements would be complied with. Whereupon a supplemental order was issued, Decision No. 8526, dated January 8, 1921, in which Defendant Smith was specifically ordered to make the following installation:

1. In Normandie avenue, from the tanks of this utility northerly to One Hundredth street a pipe of six-inch internal diameter.

2. In One Hundredth, One Hundred First, One Hundred Second and One Hundred Third streets from the main pipe in Normandie avenue westerly to Harvard boulevard, pipe of not less than two inches internal diameter.

The above pipe was required by the order to be in first-class condition, either new or second-hand, standard screw, and dipped in molten asphalt conforming to standard practice. It was further ordered that Defendant Smith was to actually begin the installation within thirty days of the date of the order and to have the work completed on or before April 1, 1921, also weekly reports of the progress of the work

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were to be rendered to the Commission, and further that the Commission was to be notified when the material had been selected for the improvement in order that an inspection could be made by a representative of its engineering department before the installation was made.

On February 14, 1921, defendant, Smith, asked for a modification of the order in the Commission's Supplemental Decision No. 8526, *supra,* alleging that in attempting to comply with the order in the Commission's Decision No. 6220, *supra,* a six-inch O. D. screw casing had been installed in Normandie avenue in place of the standard screw pipe specified in the Supplemental Decision No. 8526, for the reason that the standard screw pipe could not be purchased in the market or supplied by manufacturers within sixty to ninety days because of the war conditions then prevailing. It was further alleged that, due to the possibility of a delay in the delivery of the pipe, preventing defendant from completing the installation within the time specified in the Commission's order, the work was carried on with whatever material was available, which in this instance was the six-inch screw casing. For the same reason, it was alleged that a two and one-half inch pipe painted with asphaltum was installed in the cross streets in place of the two-inch dipped pipe specified in the Commission's order.

The evidence at the hearing upon the above application shows that the parties had executed a written agreement providing that Dr. Smith will comply with all of the Commission's orders concerning the water plant and system, without cost or expense to Mr. Miller, and that during a period of three and one-half years from the date of the agreement he will perform every order or demand of the Commission made by it concerning the water pipe on Normandie avenue and on the streets west of Normandie avenue in tract No. 3002, being Sunnyside Garden Acres, without cost or expense to Mr. Miller, and will indemnify him against cost or expense which he may be required to pay or become obligated for in an attempt to comply with any orders made by the Commission in reference to said pipe; Dr. Smith's agreement to be further secured by giving an indemnity bond of a reputable bonding company in the sum of not less than $5,000. The three and one-half year period referred to in the agreement corresponds to the period during which the firm selling the pipe in question guaranteed its service life.

The purpose of the Commission in ordering the installation of a special kind of pipe was to assure high class service to the consumers. It has no objection to the size of the two and one-half-inch pipe installed in this instance, but does object to its condition.

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The report of one of the Commission's engineers upon the system was placed in evidence at the hearing in Case No. 1375, an investigation upon the Commission's own motion of the failure and refusal of Dr. Smith to install certain improvements ordered by the Commission, which was dismissed owing to the pendency of above Case No. 1292. The records, files and proceedings in both cases were placed in evidence at the hearing upon above application. The engineer's report showed that it would be necessary to renew a portion of the substituted two and one-half-inch pipe at an early date in order to maintain good service over the area served through it. From the testimony it appears that to permit the transfer under the conditions above described might result in continued interruptions to service, beginning soon after the expiration of the bond, yet allowing applicant, Smith, to evade responsibility, although his failure to comply with the Commission's orders would be responsible for the condition complained of.

If applicant, Smith, really desires to protect applicant, Miller, and to guarantee the substituted installation to perform the service required by the Commission's order, he should increase the time limit of the guarantee to more nearly approximate the useful life of the installation ordered by the Commission. This extension of the guaranteed period appears to be a reasonable requirement and will be one of the conditions upon which the authority for transfer will be granted.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and now ready for decision, and it appearing that the transfer requested will be in the interest of consumers;

It is hereby ordered, that Dr. C. Edgar Smith be and he is hereby authorized and empowered to transfer to M. J. Miller, lot 40 original Sunnyside, as per map recorded in book 7 of maps at page 171, Los Angeles County records, together with the pumping plant, wells, tanks and other property thereon, and the distribution mains and other facilities used in connection therewith, in serving the tract of land known as Sunnyside Garden Acres, in Los Angeles County, and other property in that vicinity.

1. The authority herein granted shall apply only to such transfer as may have been made on or before sixty days from the date of this order.

2. The consideration given for the transfer of said system shall not be urged before this Commission or any other public body as a finding of the value of said property for rate fixing or any purpose other than the transfer herein authorized.

3. The parties to the application shall, by agreement supplemental to their agreement entitled "Contract and Guaranty," placed in evi-

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ence as applicants' Exhibit No. 1 herein, extend until July 1, 1929, the period during which said Smith shall guarantee the sufficiency and adequacy of the pipes in said water system lying in Normandie avenue and in streets west of Normandie avenue in said tract No. 3002, referred to in said contract and guaranty, and concerning which he agrees to indemnify said Miller. Said Exhibit No. 1 and said supplemental agreement herein referred to both to be secured by good and sufficient bond of some reputable bonding company in the principal sum of not less than $5,000, said supplemental agreement and bond to be filed with the Commission for approval within twenty days from date hereof.

4. Applicant, Miller, shall file with this Commission, within twenty days after the date thereof, a certified copy of the instrument of conveyance hereinabove authorized.

5. Within ten days after the execution of said conveyance, Dr. C. Edgar Smith shall relinquish possession of said plant and property and shall file with the Commission a certified statement setting forth the date on which such possession was actually relinquished.

6. Said proposed transfer herein referred to shall not become effective until the Commission has approved said supplemental agreement and indemnity bond by supplemental order herein.

Dated at San Francisco, California, this nineteenth day of September, 1921.

DECISION NO. 9538.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA SOUTHERN RAILROAD COMPANY, A CORPORATION, FOR LEAVE TO LEASE RAILROAD UNDER SECTION FIFTY-ONE OF PUBLIC UTILITIES ACT.

Application No. 7148.

Decided September 22, 1921.

RAILROAD UTILITY—TRANSFER—AUTHORIZATION OF COMMISSION NECESSARY IN CASE OF INTRASTATE ROAD.—Under section 51 of the California Public Utilities Act a transfer of control of one railroad to another operating within this state, is unlawful unless approved by the State Commission.

Ward Chapman, for Applicant.
Platt Kent, for The Atchison, Topeka and Santa Fe Railway Company.

LOVELAND, *Commissioner*.

OPINION.

California Southern Railroad Company, hereinafter referred to as the California Southern, asks this Commission's authority and approval for the making of a lease of its railroad to the Atchison, Topeka and Santa Fe Railway Company, hereinafter referred to as the Santa Fe.

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Under the terms of the proposed lease the Santa Fe will acquire control of the California Southern and undertakes to operate that railroad as, practically, a branch line of its system.

The Santa Fe joins in this application.

The reasons for the proposed change of control are set forth in the application. It is alleged that for several months past the California Southern has been operated under adverse conditions on account of business depression and other circumstances that have reduced its revenues and that large sums will have to be spent in the near future in maintenance and betterments. The California Southern, it is alleged, finds itself unable to raise the necessary funds for the making of such betterments. The road, as at present operated, leases the bulk of its equipment from the Santa Fe and the rental charges absorb a large part of the revenues. There appears to be no prospect of the California Southern being put in a position where it can acquire and operate its own equipment.

It further appears that for several years past the Santa Fe Land Improvement Company, hereinafter referred to as the Land Company, a corporation allied with and controlled by the Santa Fe, has had an option through J. M. Neeland, applicant's president and principal stockholder, for the purchase of all of the outstanding bonds and stock of the California Southern and that in May of 1921 the Land Company, at the instance of Mr. Neeland, elected to exercise its option to take over all of the securities of the California Southern. It appears, however, that the Land Company was willing to exercise this option only on condition that the California Southern should be leased to the Santa Fe.

A contract was accordingly entered into between J. M. Neeland and the Land Company, whereby provision was made for the taking over of all of the bonds and stock of the California Southern and transferring the operation of the road to the Santa Fe under a lease agreement which imposed upon the Santa Fe the obligation of maintaining and operating the railroad. Copies of the proposed lease and of the contract between J. M. Neeland and the Land Company are on file with this Commission as exhibits in this proceeding.

During the hearing of this application in San Francisco, attention was called to the fact that the transfer of control of this railroad is apparently to be effected not by the proposed lease alone but by two instruments, the lease and the Neeland contract together. The Neeland contract provides that, in addition to his obligation to deliver all

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of the capital stock and bonds of the California Southern. Mr. Neeland undertakes to sell and to deliver—

> The said California Southern Railroad and its property, real and personal, of all kinds, free and clear of indebtedness, excepting the indebtedness represented by the outstanding amount of mortgage bonds and capital stock issued as set forth in paragraph A. of this section numbered 2.

It was suggested that, in order to avoid delay in the rendering of a decision, applicant might wish to amend its application, asking for approval of the Neeland contract as well as the lease. Applicant's attorney, Mr. Ward Chapman, also took this view and stated (Transcript page 19):

> I was going to say I think the ideas expressed here are very pertinent, and if the Commission will permit me I would like to propose an amendment which shall recite that the contract and the lease are concurrent instruments and really a part of one transaction, and so allied that the approval of both is necessary, and I would then change the prayer of my petition in requesting the order of approving the transaction as a whole which comprises the lease and the contract for the whole of the control of all of the stock and bonds as a part of one transaction.

The application may, therefore, be considered as amended according to the statement just quoted.

This matter first came to the Commission's attention through action of the Interstate Commerce Commission. That commission, pursuant to the provision of paragraph 19, section 1, of the Interstate Commerce Act, notified the Governor of this state that application had been received from the Santa Fe for approval and authorization of acquisition of control of the California Southern in the counties of San Bernardino and Riverside in the State of California. The Governor, as is the practice in such cases, referred the matter to this Commission. A copy of the Santa Fe's application was filed with the Interstate Commerce Commission's notification. This Commission was asked to file within ten days such representations or request for formal hearing as the state authorities might wish to make. This Commission thereupon wired its protest to the Interstate Commerce Commission against the ex parte granting of the application and took the position that, under section 51 of the California Public Utilities Act a transfer of control of one railroad to another operating within this state is unlawful unless approved by this Commission. No application for permission to make the proposed transfer was before this Commission either from the California Southern or the Santa Fe. The Interstate Commerce Commission, upon such representation from this Commission, notified us that the case would be held open for a reasonable time and that further consideration to this matter would be given by the Interstate Commerce Commission.

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In the application before us, the applicant now prays that the protest of this Commission against the approval of the proposed lease by the Interstate Commerce Commission be withdrawn.

This Commission is familiar with the history of this railroad and aware of the best interests of the territory it serves. I am satisfied that the proposed transfer of control and the operation of the road by the Santa Fe, as proposed under the lease, will be to the best interests of all concerned and will be of benefit to the Palo Verde Valley, a community which is rapidly growing in importance and which is vitally dependent upon good railroad transportation facilities. It appears to me, and this view coincides with the view expressed by this Commission's engineering department, that the operation of the road by the Santa Fe will result in material operating economies and should result in a better and more dependable service than is now given. The testimony shows that the proposed transfer will have no adverse effect upon freight and passenger rates which were recently fixed for this road by order of this Commission.

In view of these facts, it is my recommendation that this application be granted and I submit the following form of order:

ORDER.

California Southern Railroad Company having made application to this Commission for an order granting permission for the making of a proposed lease to the Atchison, Topeka and Santa Fe Railway Company, and for an order authorizing the carrying out of a contract made between J. M. Neeland and the Santa Fe Land Improvement Company, which lease and contract are applicant's Exhibits 2 and 3 and are hereby referred to and made a part of this opinion and order, and it appearing to the Commission that the proposed transfer of control under the instruments referred to is just and reasonable and to the best interest of all concerned;

It is hereby ordered, that the application of California Southern Railroad Company, as joined in by the Atchison, Topeka and Santa Fe Railway Company, be and the same is hereby granted under the following condition:

Applicant shall file with the Commission within thirty (30) days from the date of this order duly executed copies, in their final form, of (a) the proposed lease referred to above; and (b) of the contract also referred to above between J. M. Neeland and the Santa Fe Land Improvement Company.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of September, 1921.

DECISION No. 9539.

WALTER G. EISENMEYER, HORACE E. SMITH, ARTHUR P. BOND, JAMES H. SHULTZ, THOMAS M. BULEY, SIDNEY K. JOHNSON, HOLTHY R. MYERS, J. B. YARNELL, VERNE M. OSBORNE, FRANK E. BAKER, CHARLES W. HILL, COL. WILLIAM STOVER, AND J. D. MINSTER

vs.

LOS ANGELES AND MOUNT WASHINGTON RAILWAY COMPANY, A CORPORATION.

Case No. 1619.

Decided September 23, 1921.

RAILWAY SERVICE—RESUMPTION OF—JURISDICTION.—It is held that the Commission has no jurisdiction to order a railroad, under control of a municipality, to resume service.

Sidney J. Parsons, for Complainant.
Woodruff and Shoemaker, for Defendant.
Jess E. Stephens, for City of Los Angeles.
Henry Z. Osborne, Jr., for City of Los Angeles.

BENEDICT, *Commissioner.*

OPINION.

The complainants ask, on behalf of themselves and certain property owners and residents of Mount Washington, in the city of Los Angeles, that the Commission make an order requiring the Los Angeles and Mount Washington Railway Company, the defendants herein, to resume operation of its railroad, and to put the property in such condition that a safe and convenient service can be given.

The defendant in its answer alleges that the railroad has not been operated for more than two years and that discontinuance of operation was ordered by the board of public utilities of the city of Los Angeles on or about January 9, 1919. Other reasons why the Commission should not make an order as prayed for by complainants were also given by defendant.

It is apparent that, under section 23 of article XII of the constitu- informally before the Commission since September, 1920, and that all informal means to assist the complainants have been exhausted. The issue of the Commission's jurisdiction was raised when the present formal complaint was brought and this matter was set down therefore for a hearing on the question of jurisdiction. I am satisfied, after care-

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ful consideration, that this Commission has no jurisdiction in the present complaint, since the defendant railroad is under the complete control of the city of Los Angeles so far as the matter of service is concerned.

It is apparent that, under section 23 of article XII of the constitutional provisions (amendment adopted November 3, 1914), an order requiring resumption of service on this railway falls within those powers of the municipality which the city of Los Angeles has not seen fit to transfer to this Commission under the provisions of this section.

It was agreed by both parties that this complaint should be referred by the Commission to the board of public utilities of the city of Los Angeles for such action as the board might see fit to take and I suggest that this be done.

I recommend that the complaint be dismissed without prejudice.

ORDER.

It appearing to the Commission that the above entitled proceeding is not within the jurisdiction of the Railroad Commission of the State of California for reasons set forth in the preceding opinion, and that the complaint should be dismissed;

It is hereby ordered, that said proceeding be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of September, 1921.

DECISION No. 9540.

IN THE MATTER OF THE APPLICATION OF F. HANCHETT AND N. LOCICERO, INDIVIDUAL OPERATORS OF AUTO STAGES BETWEEN SAN FRANCISCO AND SAN JOSE AND INTERMEDIATE POINTS UNDER THE FICTITIOUS NAME AND STYLE OF PACIFIC AUTO STAGE COMPANY, FOR AN ORDER UNDER RULE ELEVEN, GENERAL ORDER FIFTY-ONE, TO ESTABLISH CERTAIN FARES.

Application No. 6938.

Decided September 23, 1921.

AUTO STAGES—OBLIGATIONS OF COMMON CARRIER.—The Commission will not sanction the practice of discriminating against short-haul or other unprofitable business by a utility that has assumed the obligations of a common carrier. A higher local rate designed to deflect this business will not be approved and the carrier must accept passengers at the authorized tariff.

Harry A. Encell, for Applicants.
J. E. McCurdy, for Peninsular Rapid Transit Company, Protestants.

BY THE COMMISSION.

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OPINION.

F. Hanchett and N. Locicero, individual operators under the fictitious name and style of Pacific Auto Stage Company, operating passenger stage lines between San Francisco and San Jose and intermediate points, have petitioned the Railroad Commission by an application made under the provisions of Rule 11 of the Commission's General Order No. 51, for authority to adjust their rate schedules in accordance with a schedule of rates shown as Exhibit "D" as attached to and forming a part of the application in this proceeding. The schedule proposed is alleged to be the same as that of the Peninsular Rapid Transit Company, a corporation, operating automobile passenger service between San Francisco and San Jose and intermediate points over the same route as that of the applicants herein.

A public hearing on this application was conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

The operative rights of F. Hanchett and N. Locicero, applicants in this proceeding, were established by virtue of the fact that they were each operating prior to May 1, 1917, the date referred to in the auto stage and motor transportation law, chapter 213, of the Statutes of 1917, as that upon which operators then operating in good faith were not required to secure certificates from the Railroad Commission nor local permits.

In the tariffs filed by the applicants, rates were established between San Francisco, Burlingame, San Mateo, Belmont, Redwood City, Menlo Park, Palo Alto, Mayfield, Mountain View, Sunnyvale, Santa Clara, and San Jose.

Exhibit "A," attached to and made a part of the application in this proceeding, is a statement of operating revenues and expenses covering a period, September 30 to December 31, 1920, inclusive, and shows that the operating expenses and fixed charges amounted to $37,130.57 and that the operating revenue was $30,425.15, making an alleged deficit of $6,705.42 for the three months' period. However, there was set up in the operating expenses an amount for interest on investment of $1,338.75 which is not properly chargeable to operating expenses. A depreciation of 40 per cent on equipment is also shown in Exhibit "A," which is excessive, but eliminating these items entirely, the exhibits show that these operators are not earning a fair return on $55,350, the estimated value of their property used and useful in the public service.

In Exhibit "D," referred to above, which was a statement of proposed rates and fares, was shown proposed fares between San Francisco and San Mateo and Burlingame as 25 cents. In article 6, page

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3 of the application applicants stated they desired to charge between San Francisco and Burlingame and San Mateo 40 cents.

The applicants request permission to adopt the rates of their competitor, Peninsular Rapid Transit Company, with the exception that instead of the 25-cent rate now applying over the Peninsular Rapid Transit Company's line between San Francisco and Burlingame and San Mateo, the applicants desire to charge 40 cents.

Mr. F. Hanchett, one of the applicants, testified in substance that the 40-cent rate was desired to discourage as much as possible the use of their line by the public on short hauls, and that such rate should be permitted in that their competitor, the Peninsular Rapid Transit Company, was equipped to satisfactorily handle the short haul business between San Francisco and Burlingame and San Mateo. The Market Street Railway also operates between these points and is also equipped to handle more traffic than at present offers and has ample facilities to increase service should the public demand. Witness claims to have handled all this traffic that has offered for movement and that his instructions to his ticket agents and drivers are that such traffic must be handled when offered. Evidence is before the Commission in this proceeding as to complaints which have been made, supported by affidavits, that intending passengers offering at San Francisco for San Mateo or Burlingame have been refused passage and have been directed to the stages of the Peninsular Rapid Transit Company. Inquiry by a Commission inspector was met with the same response and passage was refused to either San Mateo or Burlingame. It should be obvious that the Commission will not permit a continuation of the practice heretofore resorted to by the applicants herein. They have assumed the obligations of a common carrier and have held themselves out to the public as to the service they propose to perform by the filing of their tariffs and time schedules as required by the statutory law and the regulations of the Commission. Having done so, they will be required to accept the obligation thereby voluntarily assumed and give service to any and all who apply for same and to any and all points specified in their tariffs and time schedules. The Commission will not authorize any discrimination in such regard nor the unloading of such short haul, and possibly unprofitable business, on a competing line, either by railroad, electric railway or stage, or by refusal to carry passengers offering. The proposed increase in fare between San Francisco and Burlingame-San Mateo from 25 cents to 40 cents would readily accomplish the result which applicants are seeking, as with the fare of the competing stage line and the electric railway at the lower rate, intending passengers would naturally select the method of transportation offering the lower fare. The rates of the applicant should be on a

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parity with their competitor, the Peninsular Rapid Transit Company, and not only to certain selected points desired by applicants, but to all points, and the service advertised by tariffs and time schedules as filed with the Railroad Commission will and must hereafter be available to all prospective passengers without discrimination as to whether the intending passenger desires transportation between San Francisco and San Jose or to any intermediate point on the route. There will be no discrimination sanctioned by this Commission as applied for in the proposed rate schedule as affecting business between San Francisco and Burlingame-San Mateo, and if further instances of complaint are brought to the attention of the Commission regarding applicants refusing to accept proferred patronage between these points, the matter is one that will receive the attention of the Commission by the institution of a proceeding on its own initiative to investigate any future alleged discrimination.

From the evidence in this proceeding it appears that applicants are in need of relief, but as we are of the opinion that where two lines are operating over the same route and under like circumstances and conditions, that the rates should be uniform, we therefore will authorize applicants herein to establish the same rates between points shown on tariffs on file with this Commission as are provided in the tariff of the Peninsular Rapid Transit Company and as on file with the Commission.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised;

It is hereby ordered, that F. Hanchett and N. Locicero, individual operators under the fictitious name and style of Pacific Auto Stage Company, be and they hereby are authorized to publish on five days' notice the schedule of rates covering one-way fares as set forth in Exhibit "D" attached to and forming a part of the application in this proceeding.

Dated at San Francisco, California, this twenty-third day of September, 1921.

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DECISION NO. 9541.

JUDSON MANUFACTURING COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1551.

Decided September 23, 1921.

A. Larsson, for Complainant.

C. W. Durbrow, *Elmer Westlake* and *Frank B. Austin*, for Defendant.

BY THE COMMISSION.

OPINION ON APPLICATION FOR REHEARING.

On August 30, 1921, the Southern Pacific Company, defendant in this proceeding, filed with the Railroad Commission a petition for a rehearing on Decision No. 9131, Case No. 1551, issue June 21, 1921.

This proceeding involved the switching charges of the Southern Pacific Company for moving carload shipments of ingots and other steel articles between points within complainant's plant located at Emeryville. Complainant alleged charges assessed to be unjust, unreasonable, discriminatory and prejudicial and, therefore, in violation of the Public Utilities Act, and asked reparation upon the shipments moved between July and December, 1917. No rate for the future was involved.

The Commission found the charge of 25 cents per ton, with a minimum of $5 per car, assessed by defendant and complained of by complainant, excessive and unreasonable. The Commission found further that $3 per car would be a just and reasonable rate for the service when performed in 1917 and ordered reparation, with interest at seven per cent (7%) per annum from date of collection.

Petitioner presents four reasons why a rehearing should be granted, but it will not be necessary to deal with the contentions seriatim, the main objection being that the evidence does not justify the finding that defendant performs at other stations a large amount of switching service at rates voluntarily established lower than the claimed average daily earning capacity of a car; that the $2.50 per car switching charge used as a comparison is not a proper comparison; that the service performed for complainant is not essentially different from that performed at different points in the Emeryville district; and that the switching service performed for complainant at Emeryville differs substantially from the switching service performed at Richmond.

The matters referred to by defendant in its application have received our consideration and we see no reason why the opinion and order should be vacated and set aside as requested by defendant.

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In the light of the whole record, which has been carefully reviewed and reconsidered, we adhere to our original conclusion as to the excessiveness and unreasonableness of the charges complained of.

We see no merit in the application for rehearing.

ORDER DENYING APPLICATION FOR REHEARING.

The defendant having, on August 30, 1921, filed an application for rehearing herein, the Commission having reviewed and reconsidered the matters referred to, and being of the opinion that there is no merit in applicant's contention,

It is hereby ordered, that application for a rehearing be and the same is hereby denied.

Dated at San Francisco, California, this twenty-third day of September, 1921.

DECISION NO. 9542.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO CREATE A BONDED INDEBTEDNESS IN THE AUTHORIZED SUM OF FIFTY MILLION DOLLARS, TO ENTER INTO A MORTGAGE OR DEED OF TRUST FOR THE PURPOSE OF SECURING THE SAME, TO ISSUE AND SELL BONDS OF SAID INDEBTEDNESS, WHEN CREATED, OF THE PAR VALUE OF TWO MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS, AND TO ISSUE AND SELL PREFERRED STOCK OF THE PAR VALUE OF THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS; AND, FURTHER,

IN THE MATTER OF THE APPLICATION OF SAN DIEGO GAS AND ELECTRIC COMPANY TO ISSUE STOCK OF THE PAR VALUE OF THREE HUNDRED DOLLARS AND TO EXECUTE THE ABOVE MENTIONED MORTGAGE OR DEED OF TRUST JOINTLY WITH SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY, AND TO EXECUTE A LEASE OF ALL ITS PROPERTY TO SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY.

Application No. 6744.

Decided September 23, 1921.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 8956, dated May 9, 1921, as amended, authorized San Diego Consolidated Gas and Electric Company, among other things, to issue and sell at not less than 81 per cent of their face value, plus accrued interest, $2,750,000 of its first and refunding mortgage bonds, subject, among others, to the condition that the proceeds from the sale of such bonds be expended only as authorized by the Railroad Commission; and,

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Whereas, the Railroad Commission has heretofore authorized San Diego Consolidated Gas and Electric Company to expend $1,831,805.51 of the proceeds obtained from the sale of the bonds; and

Whereas, San Diego Consolidated Gas and Electric Company in the third and fourth supplemental applications filed in the above entitled matter reports that during July and August it expended for additions and betterments the sum of $182,804.20 and that it intends to finance $154,160.04 of this expenditure through the withdrawal of funds obtained from the sale of bonds issued under the authority granted in Decision No. 8956; and

Whereas, San Diego Consolidated Gas and Electric Company asks permission to use $154,160.04 of the proceeds for said purpose and the Commission being of the opinion that the company's request should be granted; now, therefore,

It is hereby ordered, that San Diego Consolidated Gas and Electric Company may use not exceeding $154,160.04 of the proceeds obtained from the sale of bonds, the issue of which was authorized by Decision No. 8956, dated May 9, 1921, as amended, to finance construction expenditures not otherwise capitalized and made by San Diego Consolidated Gas and Electric Company during July and August, 1921, all as more particularly set forth in the company's third and fourth supplemental petitions filed in this proceeding.

It is hereby further ordered, that the order in Decision No. 8956, dated May 9, 1921, as amended, shall remain in full force and effect, except as modified by this third supplemental order.

Dated at San Francisco, California, this twenty-third day of September, 1921.

DECISION NO. 9543.

RICHMOND CHAMBER OF COMMERCE

vs.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 1532.

Decided September 23, 1921.

RAILROAD RATES—NO BAGGAGE PRIVILEGE FARE.—The Atchison, Topeka and Santa Fe Railway Company is ordered to restore no baggage fare between San Francisco and Ferry Point and Richmond avenue, and between San Francisco and MacDonald avenue, Richmond.

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TRAIN SERVICE—STOPPING OF TRAINS—SHELTER STATION.—The company is directed to stop trains at the points mentioned and to provide suitable shelter station facilities at Richmond avenue.

D. I. Hall and *W. J. Wallace*, for Complainant.
Platt Kent, for Defendant.

LOVELAND, *Commissioner.*

OPINION.

This complaint, filed by the Richmond Chamber of Commerce of Richmond, California, hereinafter referred to as complainant, against the Atchison, Topeka and Santa Fe Railway Company, hereinafter called the Santa Fe, alleges that the one-way passenger fare of 65 cents between San Francisco and MacDonald avenue station in the city of Richmond, and the one-way fare of 54 cents between Ferry Point in the city of Richmond and San Francisco, are illegal, unjust and excessive. The fares named in the complaint include war tax.

The fare between San Francisco and Richmond (MacDonald avenue) is 60 cents and between Ferry Point and San Francisco is 50 cents. The complaint further alleges that the defendant, Santa Fe, on or about August 18, 1918, removed its passenger station from Richmond avenue in the city of Richmond and since that time has failed to maintain a passenger station or to stop its trains to receive or discharge passengers at that point and that the removal of the Richmond avenue station and the discontinuance of stopping trains at Richmond avenue were without order or permission or authority and that such discontinuance of station facilities and the stopping of trains thereat have been a great inconvenience to a large number of the residents of the city of Richmond. Complainant asks that the Santa Fe be required to restore the passenger fares between San Francisco, and Ferry Point, Richmond avenue, and MacDonald avenue, all in the city of Richmond, California, based on the rates in effect prior to federal control, and to restore its passenger station at Richmond avenue in the city of Richmond.

Prior to federal control of the railroads the passenger fare between San Francisco, and Richmond avenue and Ferry Point, in the city of Richmond, was 25 cents. The fare between San Francisco and Richmond (MacDonald avenue) was originally 30 cents; later increased to 50 cents, and on August 26, 1920, to 60 cents. The rates of 25 cents and 30 cents between San Francisco, and Richmond avenue and MacDonald avenue, in the city of Richmond, did not include the privilege of checking baggage. During federal control the Santa Fe terminal was diverted from Ferry Point and the Santa Fe passenger traffic moved via Oakland Pier of the Southern Pacific. Simultaneously with the Santa Fe fares named the Southern Pacific Company and the San Francisco-Oakland Terminal Railways (Key Route)

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maintained a 25-cent rate (without baggage privilege) between Richmond and San Francisco. By General Order No. 28 of the Director General of Railroads this changed the rate to 28 cents and, by this Commission's Decision No. 7983, which authorized state rates to be increased in harmony with Interstate Commerce Commission's *Ex parte* 74, it was increased to 34 cents.

Subsequent to relinquishment of federal control of railroads the Santa Fe discontinued service via the Southern Pacific Company's Oakland pier and resumed service via Ferry Point with their own boats. However, after the Santa Fe resumed operations via its own line it did not restore the "No baggage privilege fare" between San Francisco and Richmond (MacDonald avenue) and Richmond avenue and Ferry Point in Richmond. During the period of federal control the Santa Fe removed the Richmond avenue station and discontinued stopping trains at that point.

The evidence showed that the city of Richmond has had two growths; the original town was Point Richmond, but later a community began to grow on MacDonald avenue, a half mile or more distant from Richmond avenue, or Point Richmond. The Richmond avenue station was built as a convenience to the people in the old town and rates established voluntarily by the carrier. The Santa Fe does not maintain a regular and frequent commutation service, such as is maintained by the Southern Pacific and the Key Route to Oakland, Alameda and Berkeley; it does, however, operate a ferry service between San Francisco and Ferry Point to meet all incoming and outgoing trains, and which service is comparable to the service rendered by the Southern Pacific and the Key Route between Richmond and San Francisco. It was testified that the defendant's facilities were not taxed to capacity and that without additional expense other than that of selling tickets and the accounting therefor it could handle all the normal passenger traffic tributary to Santa Fe rails between San Francisco and Richmond.

People located in the old section of Richmond in the neighborhood of Richmond avenue can reach San Francisco by two routes other than the Santa Fe; one is to take the electric line to Albany and the Key Route, the other is to use the electric line to the Southern Pacific station. The use of either of these routes not only requires more time than the use of the Santa Fe, but the passenger must ride on the electric line to the other side of the city of Richmond in order to enjoy the lower "no baggage privilege" fare between Richmond and San Francisco.

Had the Santa Fe, during federal control, continued to operate via Ferry Point and its own boats to San Francisco the 25-cent fare

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between San Francisco and Ferry Point and Richmond avenue, and the 30-cent fare between San Francisco and Richmond (MacDonald avenue) under General Order No. 28 and *Ex parte* 74 would have been increased to 34 cents and 40 cents, respectively. Had the operations of the defendant carrier remained under the jurisdiction of this Commission the Santa Fe could not have removed its Richmond avenue station without permission from this Commission. Nor could the defendant have discontinued its service through Richmond avenue and Ferry Point, nor could it have increased its rates without authority from the Railroad Commission.

We, therefore, believe that the same rates should apply today as would have been applied had the Santa Fe continued operating via Ferry Point during federal control.

By applying the 10 per cent increase authorized by General Order No. 28 of the Director General of Railroads and the 20 per cent increase authorized by the Commission's Decision No. 7983, the fare of 25 cents between San Francisco and Ferry Point and Richmond avenue would now be 34 cents and the 30-cent fare between San Francisco and Richmond (MacDonald avenue) would now be 40 cents, and an appropriate order will be issued.

Now in regard to the discontinuance of service to the Richmond avenue station, made at the time the service was discontinued to Ferry Point station, Richmond avenue being an intermediate point between the Santa Fe station of Richmond and its Ferry Point station. The trains which formerly connected with the ferry system of the Santa Fe at Ferry Point were scheduled to terminate at Oakland and, therefore, no passenger service was given between Ferry Point and Richmond, thus resulting in no service to the station located at Richmond avenue. Since the cessation of service and prior to the restoration of service from Richmond to San Francisco via Ferry Point the Santa Fe removed the station building at Richmond avenue and failed to restore same after the commencement of service to San Francisco via Ferry Point. The change in the routing of trains was one that occurred during the time of federal control of railroads; such federal control has now ceased and restoration of the service between Richmond and San Francisco via Ferry Point and the ferry system of the Santa Fe has been made. The facilities formerly enjoyed by the public at Richmond avenue should be restored and a suitable shelter station should be established at this point and such trains as were scheduled to stop at Richmond avenue prior to commencement of federal control should now be scheduled to stop at this point.

From the evidence in the proceeding, I am not of the opinion that the Santa Fe should be required at this time to restore the ticket agency

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formerly located at Richmond avenue, but I am of the opinion that Richmond avenue should be served as a station stop and that suitable shelter facilities should be provided at such location, and the order herein will so provide.

ORDER.

It is hereby ordered, that defendant, the Atchison, Topeka and Santa Fe Railway Company, be and it is hereby required to publish and file within twenty (20) days from the date of this order a one-way passenger fare of 34 cents, without baggage checking privilege, between San Francisco, and Ferry Point and Richmond avenue in the city of Richmond, and a rate of 40 cents, without baggage checking privilege, between San Francisco and Richmond (MacDonald avenue), such rates to be published on five (5) days' notice to the public and to this Commission.

It is hereby further ordered, that defendant, the Atchison, Topeka and Santa Fe Railway Company, be and it hereby is required to stop all passenger trains at Richmond avenue for the purpose of taking on and discharging passengers, the trains to serve said Richmond avenue to be the same as formerly served such point prior to commencement of federal control, and that there shall be erected, within sixty (60) days from the date of this order suitable shelter station facilities at Richmond avenue, such facilities to be constructed in accordance with plans to be submitted to the Commission for its approval within twenty (20) days from the date of service of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of September, 1921.

DECISION NO. 9545.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO NORTHERN RAILROAD COMPANY, A CORPORATION, FOR AUTHORITY TO INCREASE CERTAIN SWITCHING CHARGES AT SACRAMENTO, CALIFORNIA.

Application No. 6812.

Decided September 23, 1921.

RAILROAD RATES—TRANSFER CHARGE.—It is held to be common practice among carriers to provide a transfer charge at their terminals very much lower than the ordinary switching charge.

RAILROAD RATES—LINE HAUL.—Contention that the service in this proceeding is a line-haul not sustained. The rate is published in the terminal tariff and the distance traversed for a long period has been treated as part of the Sacramento switching district.

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TRANSFER RATE—BASIS OF REASONABLENESS.—The only basis of the reasonableness of the rate in question is by measuring such rate with other rates voluntarily established for the same kind of service, which is found to be $3 per car regardless of weight or the distance hauled.

Chas. R. Detrick and *Heller Ehrman, White and McAuliffe*, for Applicant.
Jesse H. Steinhart, for San Francisco-Sacramento Railroad.
A. E. Baldwin and *C. J. Goodell*, for Central California Traction Company.
G. J. Bradley, for Merchants' and Manufacturers' Traffic Association of Sacramento.
Jas. A. Keller, for Coast Rock and Gravel Company.

BY THE COMMISSION.

OPINION.

In this application, made pursuant to the provisions of section 63 of the Public Utilities Act, the Sacramento Northern Railroad Company (hereinafter referred to as the Sacramento Northern) asks the Commission for authority to increase its intermediate carload switching rate of 37½ cents per ton, with a minimum charge of $6.50 per car on freight between transfer tracks of the San Francisco-Sacramento Railroad Company (hereinafter referred to as the San Francisco-Sacramento), at West Side, Yolo County, and transfer tracks of the Southern Pacific Company, Western Pacific Railroad Company and Central California Traction Company at Sacramento.

The present charges of the Sacramento Northern for intermediate switching between the transfer tracks is $3 per car when such switching is incidental to a foreign line haul, and $4 per car when not incidental to a foreign line haul.

Hearings were held before Examiner Geary on June 3, 16 and 21, and the matter is now ready for a decision.

Applicant bases its prayer for the increase upon the alleged circumstances:

That although the rate is published as a switching charge in applicant's terminal tariff, the service performed under such rate is not terminal switching, inasmuch as it involves a line haul by applicant; that the present charge is not remunerative; that performance of the service puts an undue burden upon applicant which interferes with operations, and that this service is of financial advantage to the San Francisco-Sacramento, but is of no benefit to the general public, as it causes an unnecessary diversion of traffic from the direct routes.

The most westerly point of the interchange track between the San Francisco-Sacramento and the Sacramento Northern is located at West Side. From this point the line of the Sacramento Northern continues northerly and easterly across the M street bridge over the Sacramento River to Front and M streets in the city of Sacramento, then southerly along said Front street to Front and X streets, where is located the first interchange track with the Southern Pacific Company, known as Southern Pacific transfer No. 1. The distance from the point

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of transfer to West Side to Front and X streets is 1.83 miles. The track over the M street bridge is operated jointly by the San Francisco-Sacramento and the Sacramento Northern. From said M street bridge southerly along Front street to R street the ownership of the track is exclusively in the Sacramento Northern. The trackage from R street along Front street to X street is owned jointly with the Central California Traction Company. From Front and X streets to Eighth and X streets the traffic moves over a single track trunk line owned jointly by the Sacramento Northern and the Central California Traction Company. Paralleling this portion of the track are side tracks and switches. The line along X street from Eighth street to Thirty-first street is double track and owned jointly by the Sacramento Northern and the Central California Traction Company. At Nineteenth and X streets the Western Pacific Railroad Company has its first transfer connection with the Sacramento Northern. The distance from the transfer point at West Side to this transfer of the Western Pacific Railroad Company is 2.9 miles. The route continues northerly from Thirty-first and X streets along Thirty-first street to C street over single track, and westerly on C street to Nineteenth street, where this part of the Sacramento Northern connects with its main line, continuing then over private right of way to Haggin yard, where it connects with Southern Pacific transfer No. 2. The distance from West Side transfer to Southern Pacific transfer No. 2 is 7 miles. From this latter point of transfer the line continues northerly to the Western Pacific transfer at the American River, making a total distance of 7.2 miles from the West Side transfer.

Testimony adduced at the hearing established the fact that, unlike most yards used for the making up and breaking up of trains, the Sacramento Northern's Sacramento yard has not a central point with a system of tracks sufficiently large to perform this service at one point. Cars are assembled and made up into trains, and trains are broken up for distribution of cars to the various interchange tracks, freight house and industry tracks at the three different and widely separated points: Front and X streets, including the tracks from Eighth and X, Sacramento Northern's freight house at Front and M streets and the Haggin yard.

Applicant testified that on account of the physical layout of the tracks in the Sacramento yard a great deal of interference with the operation of its trains resulted; that the track from Eighth to Thirty-first on X street is being used by the Central California Traction Company for handling sixteen trains daily in and out of Sacramento and the operation of a 20-minute street car service, the passenger trains of the Central California Traction Company being given preference; that

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at Nineteenth and X streets the Western Pacific Railroad interchange track leads from the main line and is used by the Central California Traction Company for its Stockton trains and street cars, resulting in material interference with the operations; also at Twenty-eighth and X, Twenty-first and X and Tenth and X streets, crossings of the Pacific Gas and Electric Company necessitate the slow operation of applicant's trains. There is great interference with applicant's yard crews along the track from Front and M streets across the M street bridge over the river to the West Side transfer, with the San Francisco-Sacramento on account of the frequent opening of the drawbridge across the river, the evidence disclosing the fact that there are 106 regular movements of scheduled passenger trains, street cars and yard motors over the M street bridge each day.

Applicant further contends that the physical layout of the tracks in the Sacramento yards, and the fact that they are scattered over considerable territory, making long distances between interchange tracks, together with use of much of this track jointly and in the operation of street cars as well as yard motors, is such as to result in a higher cost to the company for performing the switching service than if the tracks were all located in one compact yard, where there would be no interference.

Protestant, the San Francisco-Sacramento, submitted exhibits showing that for the switching of cars between transfer tracks, regardless of the distance, a charge of $3 per car is assessed at various places in the state by the switching carriers, viz: the Atchison, Topeka and Santa Fe Railway Company, Southern Pacific Company, San Francisco-Oakland Terminal Railways and Western Pacific Railroad Company.

Protestant also introduced in evidence exhibits showing the bridge switching performed by Sacramento Northern during the year ending December 31, 1920, to consist of 1341 cars, with an average load of 34 tons per car. This average was arrived at by protestant's checking of applicant's waybills, which necessarily show the actual tonnage. Applicant had testified that the average load was 37.7 tons per car. Difference in weight should not be ignored, but it is not a controlling element of switching charges. The exhibits also show that the amount of switching done for the Western Pacific Railroad Company is far greater than for either the Southern Pacific Company or the Central California Traction Company. Evidence brought to light the fact that the Western Pacific Railroad Company had purchased 92 per cent of the securities of the Sacramento Northern. Of the entire switching service performed by the Sacramento Northern for the various connecting carriers but 8.8 per cent is bridge haul service rendered the San Francisco-Sacramento.

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Other evidence introduced by the San Francisco-Sacramento was to the effect that in the year 1920, 69 per cent of the cases where intrastate shipments were shipped by the Sacramento Northern over the switching track involved in the case in question either the consignee or the shipper absorbed the switching charge of $3 per car.

It was further shown that where a main-line haul is involved, the San Francisco-Sacramento makes a reciprocal allowance to the Sacramento Northern; that is, gives a part of its line-haul revenue to the Sacramento Northern. Apparently, then, the $3 switching charge is not all the Sacramento Northern receives for its switching service.

It is common practice among carriers to provide a transfer charge at their terminals very much lower than the ordinary switching charge. This well established principle obtains, among other places, at the great terminals of San Francisco, Oakland, Los Angeles and Sacramento, where an intermediate bridge charge of $3 from transfer track to transfer track is assessed.

In reply to a question as to how the Sacramento Northern could justify a charge at Sacramento in excess of $3 for a like service at other points, applicant stated that "the only justification we have would be that it costs us more than that to actually perform the service."

The questions propounded by Mr. Bradley, representing the Merchants' and Manufacturers' Traffic Association of Sacramento, developed the fact that on purely noncompetitive traffic originating on the line of the San Francisco-Sacramento the imposition of a rate of 37½ cents per ton for bridge switching by the Sacramento Northern would close such markets to the Sacramento consumer for the simple reason that the dealer could not absorb the additional cost.

The Coast Rock and Gravel Company, as intervener, introduced in evidence an exhibit showing charge of $3 per car for intermediate switching at California and Nevada points. Its witness also testified that his company has under consideration with the California Highway Commission the movement of approximately 35,000 tons of sand, rock and gravel from Fairoaks on the Southern Pacific to Garfield and Creede on the San Francisco-Sacramento, but that if the rate of 37½ cents per ton were put into effect for the bridge transfer from the Southern Pacific Company to the San Francisco-Sacramento, it would result in a charge of approximately $20 a car instead of $3 and eliminate the Highway Commission from purchasing material from intervener's plant at Fairoaks, for the reason that intervener could not absorb the increase. Protest was made by the Highway Commission itself through a telegram to the Commission, read into the record. This protest against the granting of the proposed increase was based on the

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ground that such increase in the rate would result in a material increase in the cost to the state in its highway construction work.

At the hearing on June 3, applicant submitted in evidence an exhibit showing computations and bases used in arriving at a cost of $5.13 as the average per loaded car of switching all business coming from the San Francisco-Sacramento to the Southern Pacific transfer at Front and X streets, and the Western Pacific transfers at Nineteenth and X and Nineteenth and B (Haggin) streets, and testified that the above amount does not include anything for taxes or interest on investment.

This same exhibit contained an item showing $7.67 which, in reply to a question as to what it signified, was explained as being the cost to the Sacramento Northern if all Southern Pacific business interchanged to the short line (meaning San Francisco-Sacramento Railroad Company) were handled at Nineteenth and B instead of Front and X streets, including the Western Pacific business.

At the adjourned hearing on June 16, applicant introduced in evidence a supplemental exhibit in which, among other changes, was substituted the sum of $4.85 in place of $5.13, and $7.22 in lieu of $7.67 applicable, as shown in the preceding paragraph, and testified that a different process was used in arriving at the latter figures than was employed in ascertaining those shown in the earlier exhibit; that in the latter exhibit the figures had been segregated on a different basis and that the new item was "probably more accurate than the first one."

The exhibits and the evidence in connection with the cost of switching cars was vigorously attacked by the San Francisco-Sacramento, and an analysis of the items of operating expenses was studied and revised by representatives of the applicant, the protestants and the engineers of this Commission.

The report of the Commission's engineering department reads, in part, as follows:

> Pursuant to the arrangements made at the last hearing in this matter, have checked over the evidence submitted with reference to the cost to the Sacramento Northern for performing this service and find as follows:
>
> 1. Based upon the figures submitted by witness Evans the actual cost is $4.02 per loaded car.
>
> 2. Modifying the above and using witness Nelson's figures for the item of cost of train crew, the cost is $3.95.
>
> 3. Modifying the figure under 2 above by a reduction of one-third in the cost of general office salaries and expenses, as suggested by Mr. H. A. Mitchell, the cost would be $3.70 per loaded car.
>
> All of the above figures are predicated upon operations in the future being carried on as in the past, using the transfer at Front and X streets, Sacramento, in the same way as it has been used.

It will thus be seen that no positive cost for moving a loaded car can be arrived at and that any figure must be computed on a more or less arbitrary basis.

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We will not enter into a discussion of the figures presented by the contending factions, for the element of the exact cost of performing the service is not a controlling factor in arriving at charges to be made for switching carload traffic between transfer or interchange tracks within terminal yards.

Upon a review of the freight tariffs, we find the arrangement for switching carload traffic from West Sacramento (West Side) became effective May 22, 1915, at the time the Sacramento Northern, then known as the Northern Electric Railway Company, was in the hands of a receiver, and the line now known as the San Francisco-Sacramento Railroad was known as the Oakland, Antioch and Eastern Railway. The charge originally was $2.50; the charge for the same service now is $3 when incidental to a foreign-line haul, and $4 for a local service.

The adjustment proposed in this application would make the rate from the West Side transfer of the San Francisco-Sacramento to points within the same switching limits 37½ cents per ton, with a minimum of $6.50. The testimony shows that the cars switched average 35 tons, making an average charge under the proposed rate of $13, as against the flat charge of $3 now in effect. In the case of cars moved on behalf of the State Highway Commission for road construction where the loading is between 50 and 60 tons, the average charge would be approximately $20 per car, as stated by witness for the Coast Rock and Gravel Company. It will thus be seen that to disturb the transfer switching charges would disturb a situation of long standing and have a serious effect not only upon the tonnage movements of protestants, the San Francisco-Sacramento, but also on commercial interests within the city of Sacramento.

We do not believe the applicant's contention that the service performed is a line haul from West Side and that it is of no benefit to the general public can be sustained. The rate is published in the terminal tariff and during more than the six years West Side has been treated as part of the switching district within the city of Sacramento, and the testimony amply proves that the service is performed entirely by the regular switching engine and crew.

The only basis upon which this Commission can reach a conclusion as to the reasonableness of the rate for switching of the kind involved in this proceeding is by measuring such rate with other rates voluntarily established for the same kind of service and, as heretofore stated, the common charge for a movement from transfer track to transfer track within the State of California in connection with line-haul traffic is $3 per car regardless of weight or the distance hauled.

The fact that traffic moving in this switching transfer service at Sacramento is more or less congested is no justification for the imposi-

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tion of unreasonable rates. The record shows that the San Francisco-Sacramento has no other means of reaching industry or connecting carriers' tracks at Sacramento except by use of the service now rendered by the Sacramento Northern, and the adjustment proposed would seriously retard and interfere with the San Francisco-Sacramento freight traffic without any particular benefit to applicant.

A reciprocal switching arrangement under which carload traffic is moved between transfer tracks of all lines at the terminals at reasonable uniform charges is desirable and to the best interests of both shippers and carriers and should be continued or brought about wherever possible. There is no satisfactory evidence in this record with respect to the reasonableness of the proposed increased rates, nor is there sufficient reliable data upon which to base a reasonable rate for the service. Applicants have failed to justify the proposed increases and, therefore, the application will be denied.

ORDER.

The Sacramento Northern Railroad Company having made application to increase certain switching charges at Sacramento, a hearing having been held, the testimony and exhibits connected with the application having been carefully considered, and the Commission having found that the applicant has not justified the application and that it should be denied;

It is hereby ordered, that the said application be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of September, 1921.

DECISION NO. 9553.

IN THE MATTER OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS AND OF CLASS "A" SIX PER CENT CUMULATIVE PREFERRED STOCK.

Application No. 7091.

Decided September 23, 1921.

McKee, Tasheira and Warhaftig, for East Bay Water Company.
Leon E. Gray, for City of Oakland.
Frank V. Cornish, for City of Berkeley.
W. J. Locke, for City of Alameda.
J. Allison Bruner, for City of San Leandro.

ROWELL, *Commissioner.*

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OPINION.

East Bay Water Company, in the above entitled application, asks permission to issue $825,000 face value of 5½ per cent first mortgage bonds, due January 1, 1946; and $275,000 par value of Class "A" cumulative preferred stock, in payment for the properties of The Union Water Company of California and The Union Water Development Company.

The Railroad Commission, by Decision No. 8491, dated December 24, 1920, in Application No. 5503, authorized The Union Water Company of California to sell its properties to the East Bay Water Company. In the same decision the Commission found as a fact that public convenience will be served by the transfer of the properties of The Union Water Company of California to East Bay Water Company and that a fair price to be paid for the properties described in Decision No. 8491 is $1,100,000.

From the testimony in this proceeding it appears that The Union Water Company of California and The Union Water Development Company have agreed to accept at par in payment for their properties $825,000 of East Bay Water Company 5½ per cent first mortgage bonds, due January 1, 1946, and $275,000 of Class "A" 6 per cent cumulative preferred stock.

It further appears from the testimony that East Bay Water Company has been given an option to buy back the $825,000 of bonds at 85 and accrued interest and the stock at $74 per share. If these options are exercised, the owners of the properties of The Union Water Development Company and the Union Water Company of California will realize $904,750. Of the purchase price, $50,000 may be paid in cash. If this is done, the amount of stock and bonds which the East Bay Water Company will issue will be reduced proportionately.

Representatives of several cities appeared at the hearing. While they did not enter a formal protest against the granting of the application, they did endeavor to ascertain the figure at which East Bay Water Company intends to include in a rate base the properties of The Union Water Development Company and The Union Water Company of California.

There are now pending before the Commission several proceedings involving the rates of the East Bay Water Company, and if at the time these proceedings are heard, the transfer of the properties referred to herein has been consummated, the Commission will then consider at what figure the properties of The Union Water Development Company and The Union Water Company of California shall be included in the rate base.

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I am satisfied that the price which the East Bay Water Company intends to pay for the properties referred to herein is not unreasonably high and that the Commission may properly authorize the issue of the stock and bonds covered in this application.

I herewith submit the following form of order:

ORDER.

East Bay Water Company, having applied to the Railroad Commission for permission to issue $825,000 of bonds and $275,000 of stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in this order, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that East Bay Water Company be and it is hereby authorized to issue not exceeding $825,000 face value of its 5½ per cent first mortgage bonds, due January 1, 1946, and $275,000 par value of its Class "A" 6 per cent cumulative preferred stock in full payment for the properties of The Union Water Company of California and The Union Water Development Company, more particularly described in Decision No. 8491, dated December 24, 1920. If any part of the purchase price is paid in cash, the amount of bonds and stock which may be issued is reduced proportionately.

The authority herein granted is subject to further conditions, as follows:

1. East Bay Water Company shall keep such record of the issue and sale of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until East Bay Water Company has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to $825.

3. The authority herein granted will apply only to such stock and bonds as may be issued and delivered on or before December 15, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of September, 1921.

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DECISION NO. 9555.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING THE EXECUTION AND DELIVERY OF A MORTGAGE OF ALL ITS PROPERTIES TO UNION BANK AND TRUST COMPANY OF LOS ANGELES AS TRUSTEE.

———

Application No. 7127.

Decided September 23, 1921.

———

Murray Bourne, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

Midland Counties Public Service Corporation asks permission to execute a mortgage substantially in the same form as the mortgage filed in this proceeding and marked Exhibit "B."

It is the intention of the Midland Counties Public Service Corporation to execute a mortgage to secure an authorized issue of $5,000,000 of general refunding mortgage gold bonds. The proposed mortgage provides that $750,000 of the bonds shall bear interest at the rate of 7½ per cent per annum, shall mature September 1, 1956, and shall be subject to redemption after thirty days published notice on any interest payment date to and including September 1, 1931, upon the payment of the principal and accrued interest and a premium of 7½ per cent upon the principal thereof. After September 1, 1931, the premium is reduced from 7½ to 5 per cent. All of the other bonds which will be issued under the mortgage may contain the same terms and be of the same series as the $750,000, or if the board of directors shall so determine, all or any of them may be issued in series, bearing such date of maturity, interest rate, price and conditions for redemption and other terms as decided by the board of directors.

Of the $5,000,000 authorized issue of general refunding bonds, $257,000 are reserved to refund, redeem, purchase or retire by exchange or otherwise $257,000 of first mortgage 6 per cent 20-year sinking fund gold bonds of Midland Counties Gas and Electric Company, dated January 1, 1912, and $496,000 are reserved to redeem, purchase or retire by exchange or otherwise $496,000 of first and refunding mortgage 6 per cent 40-year gold bonds of Midland Counties Public Service Corporation dated October 1, 1913.

The general refunding mortgage gold bonds, other than the $750,000 mentioned above and those used to refund or pay underlying bonds, may be issued from time to time only to the extent of 75 per cent of the cost of making additions and betterments if the net income of the company for a period of twelve consecutive months within fourteen calendar months immediately preceding the calendar month in which an

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application for certification and delivery of bonds shall have been made, is at least equal to one and three-quarters times the annual interest charges on the bonded debt of the company.

In the proposed mortgage, the company agrees that it will not issue and sell any additional first and refunding bonds under its mortgage dated October 1, 1913, but that all of such bonds not now sold and in the hands of the public will from time to time, if proper permission can be secured, be issued and deposited with the trustee under the general refunding mortgage. The first and refunding mortgage of the company was executed to secure the payment of $3,000,000 of bonds. Of these bonds, $454,000 are now said to be outstanding and in the hands of the public. As these are reacquired by the company, they are to be deposited with the trustee under the proposed general refunding mortgage. By this arrangement, the holders of general refunding bonds have a third lien on applicant's properties and a direct lien on the first and refunding bonds deposited with the trustee under the new mortgage, which first and refunding bonds are in turn said to be a first lien on all, but about 15 per cent of the company's properties.

While I am of the opinion that a simpler mortgage than that submitted in this proceeding might have been drawn up to meet the needs of the company, nevertheless, inasmuch as it does not contain any objectionable features, I recommend that the company be authorized to execute a mortgage substantially in the same form as that filed in this proceeding and marked Exhibit "B." It is, of course, understood that the authority herein granted to execute a mortgage in no wise authorizes the company to issue and dispose of any of the bonds, the payment of which may be secured by said mortgage.

I herewith submit the following form of order:

ORDER.

Midland Counties Public Service Corporation having applied to the Railroad Commission for permission to execute a mortgage, a public hearing having been held and the Commission being of the opinion that applicant's request should be granted;

It is hereby ordered, that Midland Counties Public Service Corporation be and it is hereby authorized to execute a mortgage substantially in the same form as the mortgage filed in this proceeding and marked Exhibit "B," provided that the authority herein granted to execute a mortgage is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject. Within thirty days after the execution of the mortgage

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herein referred to, applicant shall file with the Commission three (3) copies of said mortgage as finally executed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of September, 1921.

DECISION No. 9558.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ITS SERIES "C" BONDS IN THE AMOUNT OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS PAR VALUE.

Application No. 7197.

Decided September 27, 1921.

Paul Overton, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Los Angeles Gas and Electric Corporation asks permission to issue and sell at not less than 94¾ per cent of their face value and accrued interest $1,500,000 of its Series "C" general and refunding mortgage 7 per cent gold bonds to be dated September 1, 1921, and payable June 1, 1931.

Applicant in Exhibit "D" filed in this proceeding estimates that during 1921 it will have to expend for plant extensions, additions and betterments the sum of $8,263,806. The Commission has heretofore authorized applicant to issue and sell $6,000,000 of its general and refunding bonds and $3,000,000 of its 6 per cent preferred stock to finance construction expenditures during 1921 and expenditures to be made subsequent thereto. Applicant reports that it has sold all of the bonds and realized from such sale the sum of $5,617,500. It estimates that it can sell $2,000,000 of its authorized preferred stock during the current year and collect on account of such sale the sum of $1,225,056. The record shows that applicant is at this time in need of additional funds to carry forward its construction program and that it intends to obtain such funds from the sale of $1,500,000 of its general and refunding mortgage Series "C" bonds.

I herewith submit the following form of order:

ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for permission to issue $1,500,000 of bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for

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by such issue is reasonably required for the purpose or purposes specified in this order and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Los Angeles Gas and Electric Corporation be and it is hereby authorized to issue and sell, for cash, at not less than 94¾ per cent of their face value plus accrued interest $1,500,000 of its general and refunding mortgage Series "C" 7 per cent gold bonds to be dated September 1, 1921, and mature June 1, 1931, for the purpose of financing in part the cost of the plant extensions, additions and betterments referred to in Exhibit "D" filed in this proceeding.

The authority herein granted is subject to further conditions as follows:

1. Los Angeles Gas and Electric Corporation shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed in section 57 of the Public Utilities Act, which fee amounts to $1,250.

3. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before December 15, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of September, 1921.

DECISION NO. 9559.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA TELEPHONE COMPANY FOR AUTHORITY TO PURCHASE LAND IN THE CITY OF LOS ANGELES FROM THE MERCANTILE FIREPROOF BUILDING COMPANY, AND FOR AUTHORITY TO ISSUE A PROMISSORY NOTE IN PAYMENT THEREFOR AND FOR AUTHORITY TO EXECUTE A MORTGAGE AS SECURITY FOR SAID NOTE.

Application No. 7084.

Decided September 27, 1921.

H. D. Pillsbury, James D. Shaw and *Arthur Wright,* for Southern California Telephone Company.

O. P. Schoonmaker, for Mercantile Fireproof Building Company.

BRUNDIGE, *Commissioner.*

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OPINION.

Southern California Telephone Company asks permission to issue a $150,000, 6 per cent serial note and execute a mortgage to secure the payment of the note.

The company reports that it has arranged to purchase at a cost of $150,000 from the Mercantile Fireproof Building Company a parcel of land situated in the city of Los Angeles and described as follows:

The southerly 250 feet of block "A" of the Obear tract, in the city of Los Angeles, county of Los Angeles, State of California, as per map recorded in book 2, page 40 of maps, in the office of the county recorder of said county, more particularly described as follows:

Beginning at the southwest corner of said block "A"; thence northerly along the easterly line of San Pedro street, 250 feet, thence easterly to a point in the easterly line of said block "A," distant northerly 250 feet from the southeast corner of said block; thence southerly along said easterly line to the southeast corner of said block; thence westerly along the southerly line of said block, to the point of beginning.

Also a right of way for ingress and egress over the following described strip of land, to wit:

Beginning at the point in the westerly line of said block "A" of the Obear tract, distant northerly 250 feet from the southwest corner of said block; thence easterly to a point in the easterly line of said block, distant northerly 250 feet from the southeast corner of said block; thence northerly along said easterly line 56 feet; thence westerly to a point in the westerly line of said block, distant northerly 56 feet from the point of beginning; thence along said westerly line 56 feet to the point of beginning.

Subject to taxes fiscal year 1921-1922.

I. F. Dix, applicant's plant superintendent, testified that it was necessary for the company to purchase the property and to construct a building thereon to be used by the company for garage, repair shop and storeroom purposes. A statement submitted shows that through the acquisition of the properties and the construction of the necessary building, the company will be able to save approximately $18,786 a year.

The deed of trust of Southern California Telephone Company contains an after-acquired property clause. Because of this clause, it is probable that the properties which the company intends to acquire will be purchased from the Mercantile Fireproof Building Company by an individual, who in turn will transfer the property to applicant subject to the indebtedness issued by him in payment for the properties. It appears that the owner of the properties is unwilling to accept a second mortgage securing the notes issued in payment for the properties. If the properties are acquired by an individual and notes issued by him in payment therefor and a mortgage executed to secure the payment of such notes, the mortgage will constitute a first lien and the deed of trust of Southern California Telephone Company, when it acquires the properties, a second lien. In its original application, it was the intention of the Southern California Telephone Company to issue in payment for the properties a promissory 6 per cent note in

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the sum of $150,000, payable within ten years, and to execute a mortgage on the properties to secure the payment of the note. A copy of both the note and mortgage has been filed in this proceeding. The company agrees to pay the note in ten equal installments, the first installment being due and payable July 7, 1922. I believe the order herein should permit applicant to proceed either under its original plan or to acquire the properties subject to an indebtedness of $150,000 secured by a first mortgage.

I herewith submit the following form of order:

ORDER.

Southern California Telephone Company having applied to the Railroad Commission for permission to issue a $150,000 note and execute a mortgage, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified in this order and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern California Telephone Company be and it is hereby authorized to issue a $150,000, 6 per cent note, payable within ten years, in the same form as the note filed in this proceeding and marked Exhibit "A," said note being authorized to be issued for the purpose of paying for the properties described in the foregoing opinion; or may acquire said properties subject to the payment of a $150,000 indebtedness secured by a first mortgage and assume the payment of such indebtedness.

It is hereby further ordered, that Southern California Telephone Company be and it is hereby authorized to execute a mortgage substantially in the same form as the mortgage filed in this proceeding and marked Exhibit "B," provided that the authority herein granted to execute said mortgage is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

The authority herein granted is subject to further conditions as follows:

1. The Commission will not, because of the authority herein granted to issue a note, be bound to include in a rate base the consideration being paid for the properties which Southern California Telephone Company intends to acquire from the Mercantile Fireproof Building Company.

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2. Southern California Telephone Company shall keep such record of the issue and sale of the note herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to $150.

4. The authority herein granted will apply only to such note as may be issued on or before December 1, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of September, 1921.

DECISION NO. 9561.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING THE ISSUANCE OF BONDS, THE EXECUTION OF A MORTGAGE OR DEED OF TRUST TO SECURE THE SAME, AND THE EXECUTION AND DELIVERY OF TEMPORARY CERTIFICATES TO BE THEREAFTER EXCHANGED FOR SUCH BONDS.

Application No. 6574.
Decided September 27, 1921.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 8731, dated March 10, 1921, as amended, authorized The California Oregon Power Company to issue and sell, at not less than 95 per cent of face value plus accrued interest, $1,849,000 of its first and refunding mortgage sinking fund 7½ per cent gold bonds, or interim certificates, subject, among others, to the condition that the proceeds from the sale of such bonds, or interim certificates, be expended only as authorized by the Railroad Commission in a supplemental order or orders, and

Whereas, the Railroad Commission has heretofore authorized applicant to use $1,194,174.67 of the proceeds from the sale of said $1,849,000 of bonds, or interim certificates, to pay floating indebtedness and to finance construction expenditures; and

Whereas, applicant, in its fifth supplemental application filed in the above entitled matter, reports that during the month of July, 1921, it has expended on capital account the sum of $68,896.48; and

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Whereas, applicant, to finance such expenditures asks permission to use $68,896.48 of the proceeds obtained from the sale of the $1,849,000 of bonds, or interim certificates, which were authorized to be issued and sold by said Decision No. 8731, as amended; and it appearing to the Railroad Commission that applicant's request should be granted; now, therefore,

It is hereby ordered, that The California Oregon Power Company be and it is hereby authorized to expend an additional $68,896.48 of the proceeds obtained from the issue and sale of the bonds, or interim certificates, which were authorized to be issued and sold by Decision No. 8731, dated March 10, 1921, as amended, for the purpose of financing the capital expenditures reported in the fifth supplemental application in this proceeding.

It is hereby further ordered, that the order in Decision No. 8731, dated March 10, 1921, as amended, shall remain in full force and effect except as modified by this fifth supplemental order.

Dated at San Francisco, California, this twenty-seventh day of September, 1921.

DECISION NO. 9563.

IN THE MATTER OF THE APPLICATION OF GOLDEN GATE FERRY COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE ITS CAPITAL STOCK.

Application No. 6316.

Decided September 27, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 8511, dated January 3, 1921, authorized Golden Gate Ferry Company to issue, sell and deliver on or before September 30, 1921, $1,000,000 of its common stock, subject among others, to the condition that at least 82½ per cent of the proceeds obtained from the sale of the stock be not expended except as authorized by the Railroad Commission; and

Whereas, applicant has asked permission to let contracts for the building of one boat, its ferry slips and terminal facilities as soon as $300,000 of its capital stock has been actually subscribed by bona fide subscribers, and for additional time within which to sell its stock;

And the Commission being of the opinion that applicant after it has actually sold $300,000 of its stock to bona fide subscribers should file with the Commission a supplemental petition for permission to undertake the construction of a boat, ferry slips and terminal facilities,

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and that it should at this time modify only the provision of the order in Decision No. 8511, dated January 3, 1921, limiting the time within which applicant may sell its stock; therefore

It is hereby ordered, that the time within which applicant in the above entitled matter may issue, sell and deliver the stock authorized by the order in Decision No. 8511, dated January 3, 1921, be and it is hereby extended to and including January 1, 1922.

It is hereby further ordered, that the order in Decision No. 8511, dated January 3, 1921, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-seventh day of September, 1921.

DECISION No. 9565.

IN THE MATTER OF THE APPLICATION OF THE RICHMOND AND SAN RAFAEL FERRY AND TRANSPORTATION COMPANY FOR AUTHORITY TO ISSUE FOUR HUNDRED SHARES OF COMMON CAPITAL STOCK.

Application No. 7098.

Decided September 27, 1921.

G. B. Blanckenberg, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Richmond and San Rafael Ferry and Transportation Company asks permission to issue and sell at par 400 shares ($40,000) of its common capital stock.

By Decision No. 7815, dated June 30, 1920, the Commission authorized applicant to issue and sell at par $175,000 of its common stock to pay the cost of acquiring or constructing a ferry boat to improve its terminal facilities.

The record in this proceeding shows that the company has had constructed a new ferry boat, the "City of Richmond," and that such boat has cost in excess of $175,000. The boat was put in service on May 28, 1921. The increase of the actual cost over the original estimate is partly due to changes in the machinery installed, and to the fact that the boat was built by day labor. It appears that the boat cost about $27,000 in excess of the original estimate. The actual cost of the improvements of the terminal facilities is reported at about $13,000 in excess of the original cost.

The testimony shows that applicant's new boat, the "City of Richmond," is 192 feet long, 63 feet wide and has a depth of 13.6 feet. It is a wooden vessel and has a passenger carrying capacity of 550 and adapted to carry from 60 to 70 automobiles.

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It appears from the record in this proceeding that the stock applicant asks permission to issue will be purchased by the present stockholders of the company.

I herewith submit the following form of order:

ORDER.

Richmond and San Rafael Ferry and Transportation Company having applied to the Railroad Commission to issue and sell $40,000 par value of its common capital stock, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Richmond and San Rafael Ferry and Transportation Company be and it is hereby authorized to sell for par at cash on or before December 31, 1921, 400 shares ($40,000) of its common capital stock and use the proceeds to pay in part the cost of constructing the boat and the terminal facilities referred to in this application, provided Richmond and San Rafael Ferry and Transportation Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of September, 1921.

DECISION No. 9566.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS.

Application No. 6204.

Decided September 27, 1921.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

In its third supplemental application in the above entitled matter, as amended at the hearing before Examiner Geary, Coast Valleys Gas

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and Electric Company asks permission to issue and sell at not less than 94 per cent of their face value and accrued interest $113,000 of its collateral trust ten-year 8 per cent gold notes and to secure the payment of such notes by the deposit of first mortgage bonds. The Commission has by Decision No. 8409, dated November 30, 1920, authorized applicant to issue $375,000 of its first mortgage bonds and deposit them as collateral from time to time as authorized by the Commission. The company has authority now to deposit and has deposited $205,000 of the $375,000 of bonds. The remainder of the bonds it asks permission to deposit from time to time to secure the payment of the $113,000 of collateral trust notes. In Exhibit "5," filed in this proceeding, applicant estimates that it will have to expend for the acquisition of properties and the construction and completion of extensions and improvements of its facilities, the sum of $407,301.85. The testimony shows that from November 1, 1920, to May 31, 1921, it has expended $99,400 for these purposes. It asks permission to use the proceeds obtained from the sale of its collateral trust notes to pay in part expenditures set forth in Exhibit No. "5."

A public hearing having been held on the third supplemental application filed in the above entitled matter and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of the collateral trust notes herein authorized is reasonably required by the applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Coast Valleys Gas and Electric Company be and it is hereby authorized to issue and sell, for cash, on or before December 31, 1921, at not less than 94 per cent of their face value and accrued interest, $113,000 of its collateral trust ten-year 8 per cent gold notes and secure the payment of such notes by the deposit of $170,000 of its first mortgage bonds, the issue of which is authorized by Decision No. 8409, dated November 30, 1920, said bonds to be deposited subject to the terms and conditions of said Decision No. 8409.

The authority herein granted is subject to further conditions as follows:

1. The proceeds realized from the sale of the collateral trust notes shall be used by applicant to pay the cost of the plant extensions, additions and betterments reported in Exhibit "5" filed in this proceeding, provided that the cost of such plant extensions, additions and betterments is chargeable to capital account as defined by the uniform classification of accounts prescribed by the Commission.

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2. Coast Valley Gas and Electric Company shall keep such record of the issue and sale of the notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act.

Dated at San Francisco, California, this twenty-seventh day of September, 1921.

DECISION No. 9567.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 7126.

Decided September 27, 1921.

Murray Bourne, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

Midland Counties Public Service Corporation in this application asks permission to issue and sell at 94 per cent of their face value and accrued interest $801,000 of its general refunding mortgage 7½ per cent gold bonds due September 1, 1956, and issue and deposit with the trustee under the general refunding mortgage $801,000 of its first and refunding mortgage 6 per cent bonds due October 1, 1953. The company also asks permission to issue general refunding bonds to refund, during a time to be fixed by the Commission, all or part of its existing outstanding underlying bonds.

Midland Counties Public Service Corporation was organized in 1909. It has an authorized stock issue of $2,000,000, divided into $1,000,000 of common and $1,000,000 of 6 per cent cumulative preferred. All of the common stock and $500 of the preferred stock is reported outstanding.

As of July 31, 1921, the company reports $753,000 of bonds issued and in the hands of the public. The $753,000 consists of $257,000 of 6 per cent Midland Counties Gas and Electric Company first mortgage bonds due January 1, 1932, and $496,000 of 6 per cent Midland Counties Public Service Corporation first and refunding bonds due October 1, 1953. It appears from the testimony in this proceeding that $42,000

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of the first and refunding bonds have been acquired by the company since July thirty-first, leaving $454,000 of the first and refunding bonds outstanding in the hands of the public.

Applicant's first and refunding mortgage was executed to secure an authorized issue of $3,000,000 of bonds. From its Exhibit "D," it appears that $1,111,000 of the first and refunding bonds have heretofore been certified by the trustee. Applicant now asks permission to issue $154,000 of additional first and refunding mortgage bonds, which added to the $1,111,000 makes a total of $1,265,000. If the authority herein granted is carried out, the $1,265,000 of first and refunding mortgage bonds will be held as follows:

In the hands of the public	$454,000 00
Deposited with the trustee under the new general refunding mortgage	801,000 00
In company's treasury	10,000 00
	$1,265,000 00

Under applicant's first and refunding mortgage, bonds issued thereunder can not draw interest in excess of 6 per cent per annum. It is urged, and I find considerable merit in the argument, that it is better for applicant to issue bonds bearing a rate of interest in excess of 6 per cent per annum and sell such bonds near par, than it is to sell a 6 per cent bond at a discount to meet current interest rates. Applicant has taken steps to execute a new mortgage to secure the payment of the general refunding bonds. Authority to execute such a mortgage is requested in Application No. 7127. At this time, applicant asks permission to issue and sell at not less than 94 per cent of their face value and accrued interest $801,000 of its 7½ per cent general refunding bonds. The proceeds obtained from the sale of such bonds applicant asks permission to use to pay or refund current indebtedness. Its current indebtedness as of July 31, 1921, is reported in its Exhibit "A" at $1,336,871.53, and consists of the following:

Notes payable		$832,420 29
Accounts payable, etc.		453,177 50
Deposits	$7,947 11	
Prepayments	2,462 84	
Accounts payable	400,401 45	
Unaudited invoices payable	33,948 66	
Pay roll	8,417 44	
Accruals		51,273 74
Taxes	2,509 05	
Bond interest	11,225 00	
Interest on unfunded debt	5,421 93	
Sinking fund	32,117 76	
Total		$1,336,871 53

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If applicant sells the $801,000 of general and refunding bonds at 94, it will realize $752,940. Of this amount, it intends to use $362,100 to pay bank loans secured by first and refunding bonds and to use the remainder to pay part of its indebtedness due the San Joaquin Light and Power Corporation. A statement filed with the Commission shows that the Midland Counties Public Service Corporation owed the San Joaquin Light and Power Corporation on June 30, 1921, the sum of $678,775.89 represented by accounts payable and unsecured notes. Through the sale of the bonds herein authorized, this indebtedness will be reduced to about $388,000. I do not regard it the function of the San Joaquin Light and Power Corporation to do the junior financing for the Midland Counties Public Service Corporation. The payment of the indebtedness due the San Joaquin Light and Power Corporation, I believe, to be an obligation of the Midland Counties stockholders and they should take some steps to meet this obligation.

The Commission has heretofore authorized (see Decision No. 7865, dated July 10, 1920,) applicant to issue first and refunding bonds to finance the cost of additions and betterments up to May 31, 1920. The total amount of bonds so authorized, and which are now in possession of the company or are deposited as collateral is reported at $656,000. Applicant asks permission to deposit $647,000 of these first and refunding bonds with a trustee under its new general refunding mortgage and issue and sell $647,000 of its 7½ per cent general refunding bonds to finance expenditures up to May 31, 1920.

Applicant reports that it has expended for additions and betterments from May 31, 1920, to July 31, 1921, the sum of $194,803.64. These expenditures are reported in Exhibit "C" in detail. Because of these expenditures, applicant asks permission to issue $154,000 of first and refunding bonds and deposit them with the trustee under its new general refunding mortgage and to issue and sell $154,000 of its 7½ per cent general refunding bonds to secure the moneys necessary to finance part of such expenditures. For the purpose of financing the cost of additions and betterments, applicant thus asks permission to issue and sell a total of $801,000 of general refunding 7½ per cent bonds.

Applicant also asks permission to issue general refunding 7½ per cent bonds to refund underlying 6 per cent bonds. The Commission is considering the facts submitted by applicant on which this request is based, and thus far has reached no final conclusion. This part of the application will not be acted upon at this time.

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I herewith submit the following form of order:

ORDER.

Midland Counties Public Service Corporation having applied to the Railroad Commission for permission to issue bonds as indicated in the foregoing opinion, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the bonds herein authorized is reasonably required by applicant and that the expenditures herein permitted are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Midland Counties Public Service Corporation be and it is hereby authorized to issue and deposit with the trustee under its new proposed general refunding mortgage $801,000 face value of its first and refunding bonds, said bonds being referred to in paragraph "2" and paragraph "3" of the prayer in applicant's petition in this proceeding.

It is hereby further ordered, that Midland Counties Public Service Corporation be and it is hereby authorized to issue and sell, for cash, at not less than 94 per cent of their face value and accrued interest $801,000 of its general refunding mortgage 7½ per cent gold bonds.

The authority herein granted is subject to further conditions, as follows:

1. $362,100 of the proceeds obtained from the sale of the bonds shall be used by applicant to pay the following notes:

California Bank (Home Savings Bank)	$50,000 00
First State Bank of Clovis	2,500 00
Bank of Italy—Madera	5,600 00
Los Angeles Trust and Savings Bank	50,000 00
Bank of Italy—Fresno	20,000 00
Union Bank and Trust Company of Los Angeles	50,000 00
Guaranty Trust and Savings Bank of Los Angeles	50,000 00
First Bank of Kern	16,000 00
Security Trust and Savings Bank of Los Angeles	78,000 00
Security Trust Company of Bakersfield	40,000 00
Total	$362,100 00

2. The remainder of the proceeds obtained from the sale of the bonds shall be used to pay indebtedness due the San Joaquin Light and Power Corporation.

3. None of the bonds herein authorized to be issued, nor any of the proceeds realized from the sale thereof shall be used to pay, redeem, or refund any of the $257,000 of first mortgage 6 per cent 20-year sinking fund gold bonds of Midland Counties Gas and Electric Company, dated January 1, 1912, or any of the $454,000 of first and refunding mortgage 6 per cent 40-year gold bonds of the Midland Counties Public Service Corporation, dated October 1, 1913.

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4. Midland Counties Public Service Corporation shall keep such record of the issue, deposit and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will not become effective until applicant has paid the fee prescribed in section 57 of the Public Utilities Act, which fee amounts to $801.

6. The authority herein granted will apply only to such bonds as may be issued, deposited or delivered on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of September, 1921.

DECISION No. 9569.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF THE COAST VALLEYS GAS AND ELECTRIC COMPANY, ON THE COMMISSION'S OWN MOTION.

Case No. 1611.

Decided September 28, 1921.

GAS UTILITY—REHEARING—POSSIBLE INCREASED FEDERAL TAXES.—Increased federal taxes and other operating expenses because of reorganization held not to be ground for rehearing, but may be presented in a new proceeding.

INVESTMENT—RATE BASE—FAIR RETURN.—The claim for a rehearing that rates do not yield a reasonable return on investment is not sustained, as the rate is based on a fair return on a reasonable investment undepreciated.

RATE BASE—APPRECIATION OF PLANT—GOING CONCERN VALUE.—Appreciation of plant and going concern value held not factors to be included in rate base.

BY THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

Coast Valleys Gas and Electric Company has filed, under date of September 2, 1921, an application for rehearing in connection with Decision No. 9397 in the above entitled matter. As a basis for application for rehearing petitioner alleges in effect that the rates fixed in the Commission's Decision No. 9397 are unjust and unreasonable both to the company and its patrons; that the decision was in error to the extent that it was concluded that the application of the rates fixed in Decision No. 8937 would reimburse applicant for the increased oil cost and other expenses incurred during the period from the filing of Application No. 6614 to the effective date of Decision No. 8937; that

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the rate base used by the Commission in determining the rates does not reflect the true value of the company's properties for rate-making purposes; that the return of 8.2 per cent upon the rate base amounts to confiscation of property; that the rates fixed by the Commission will produce a substantially less net revenue than estimated by the Commission; that certain operating expenses which it will have to incur were not included in the Commission's decision, and that for a period of five years last past the earnings of the company under the rate fixed by the Commission have been substantially below a reasonable return.

The Commission in its Decision No. 9397 fixed rates for gas service rendered by Coast Valleys Gas and Electric Company reducing the rates previously fixed in Decision No. 8937 by approximately 14½ cents per thousand cubic feet as compared with a reduction in the price of oil equivalent to a reduction in the cost of gas of 15 cents per thousand.

Coast Valleys Gas and Electric Company urges that the higher rates in effect from May 20 to October 1, 1921, did not recompense it for deficits incurred between March 3 and May 23, 1921. The decision does not contemplate that this should be done but contemplates only reimbursement of the higher cost of oil existing during the prior period. Further analysis of the evidence shows such limited reimbursement did occur.

Petitioner urges that in the past it has not earned a fair return and that presumably it should be allowed to reimburse itself for at least a part of these deficits. Evidence shows that during a considerable part of the period in question applicant's service was not such as to justify the Commission in granting any reimbursement for past losses.

Relative to applicant's statement that certain federal taxes and possibly other operating expenses will be greater than submitted by it in this proceeding because of change of organization of the company, the Commission desires to point out that this does not appear to be legal grounds for a rehearing any more than the reduction in oil price occurring after a decision would be legal grounds for such. Applicant may bring this up in a new proceeding if it so desires.

Petitioner urges in addition that there has been invested in its properties through money paid in by stockholders and the reinvestment of all surplus earnings and reserves a large amount of money on which, under existing rates, it is not earning a reasonable return. The rates herein fixed have been determined on the basis used in this and other proceedings, which contemplates a fair return upon the reasonable investment in properties undepreciated and the Commission does not find that there is any justification for an increase in rates on the

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ground that applicant's stockholders may not receive a reasonable return on moneys which are claimed to have been invested by them.

Petitioner urges that the value of the property on which the rates were based is not reasonable and that it does not allow appreciation on its plant and going concern value. The rates herein fixed have been on the basis which has been accepted in practically all instances and has been used by the Commission in rate proceedings throughout the state and we see no reason why it should be modified herein. Petitioner further alleges that the Commission neglected to include any estimate of increase due to additions and betterments which would be installed during the ensuing year. The rate base and the operating revenues and expenses were based upon statistics for the year 1921, and if additional capital is to be added increased revenue and other items should be included.

The Commission finds no reason for granting a rehearing in this proceeding and finds that the application for rehearing should be denied.

ORDER.

Coast Valleys Gas and Electric Company having applied for a rehearing in connection with this Commission's Decision No. 9397, in Case No. 1611, and the Commission finding no just reason for the granting of such rehearing;

It is hereby ordered, that the petition for rehearing in the above entitled matter be and the same is hereby denied.

Dated at San Francisco, California, this twenty-eighth day of September, 1921.

DECISION No. 9571.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TELEPHONE AND LIGHT COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING SAID CALIFORNIA TELEPHONE AND LIGHT COMPANY TO ISSUE, SELL AND DELIVER TO THE FACE AMOUNT OF FIFTY THOUSAND DOLLARS ITS FIRST MORTGAGE SIX PER CENT GOLD BONDS MATURING APRIL 1, 1943.

Application No. 7118.

Decided September 28, 1921.

Leo H. Susman, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

California Telephone and Light Company in this application asks permission to issue $50,000 of its first mortgage 6 per cent bonds, due April 1, 1943, and to sell such bonds at not less than 85 per cent of their face value and accrued interest.

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Applicant also asks permission to use the proceeds obtained from the sale of the bonds to reimburse its treasury on account of earnings expended for plant extensions, additions and betterments.

In Exhibit No. 1 applicant reports that as of June 30, 1921, it had $1,108,736.66 of stock outstanding. The outstanding stock consists of $764,850 of common and $343,886.66 of 6 per cent cumulative preferred. The exhibit shows $557,900 of first mortgage 6 per cent bonds outstanding. The current liabilities are reported at $77,661.81. This includes notes and accounts payable, line extension deposits and accrued interest and taxes. Applicant's accumulated surplus is reported at $139,569.41, and its reserve for accrued depreciation at $83,700.66.

In Exhibit No. 3 applicant reports the net cost of additions and betterments from 1913 to and including June 30, 1921, at $469,272.71. Its Exhibit No. 4 shows $279,301.36 realized from the sale of bonds and stock, the issue of which has heretofore been authorized by the Commission. Deducting the $279,301.36 from the $468,272.71 leaves a balance of $188,971.35 of capital expenditures, which applicant alleges have not been financed through the issue of bonds or stock. Inasmuch as applicant in this proceeding asks permission to issue only $50,000 of bonds, it does not appear to be necessary to make a complete detailed check of the reported uncapitalized expenditures.

The bonds herein authorized to be issued are not allocated against any particular item of expenditure, but are authorized to finance $50,000 of the reported expenditures properly chargeable to capital account under the classification of accounts prescribed by the Commission.

The testimony shows that applicant's net earnings are sufficient to permit the trustee under its mortgage to certify the $50,000 of the bonds.

I herewith submit the following form of order:

ORDER.

California Telephone and Light Company, having applied to the Railroad Commission for permission to issue $50,000 of bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue, is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that California Telephone and Light Company be and it is hereby authorized to issue and sell for cash at not less than 85 per cent of their face value and accrued interest $50,000 of its first mortgage 6 per cent gold bonds, due April 1, 1943, for the purpose of financing in part capital expenditures reported in Exhibits

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"3" and "4," and to reimburse applicant's treasury on account of earnings expended to pay in part the cost of constructing and acquiring properties referred to in said exhibits. Only such expenditures as are properly chargeable to capital account, in accordance with the classification of accounts prescribed by the Commission shall be financed through the issue of the bonds herein authorized.

The authority herein granted is subject to further conditions, as follows:

1. California Telephone and Light Company shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed in section 57 of the Public Utilities Act, which fee amounts to $50.

3. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-eighth day of September, 1921.

DECISION NO. 9575.

IN THE MATTER OF THE APPLICATION OF JOSEPH A., CHAS. S., GEORGE A., JOHN G., AND ANNIE MAST, FOR THE ESTATE OF E. J. MAST, FOR AUTHORITY TO INCREASE WAREHOUSE RATES AT ESPARTO, CALIFORNIA.

Application No. 6984.

Decided September 29, 1921.

BY THE COMMISSION.

OPINION.

Joseph A., Chas. S., George A., John G., and Annie Mast, for the estate of E. J. Mast, operating under the fictitious name of the Mast Warehouse, located at Esparto, make application under section 63 of the Public Utilities Act for authority to publish and make effective storage rate on grain for the season June first to May thirty-first of the following year of $1.25 per ton.

Applicant, through a misunderstanding, has had no proper tariff on file with this Commission for the storage of grain, and the rate now

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proposed to be published of $1.25 per ton is the same rate now being charged by competing warehouses at Esparto, Winters, Capay and other warehouses in the same territory.

The warehouse devoted to the service has a claimed value of $7,500. The amount of grain stored is small in volume, totaling 373 tons during the year 1920. The total receipts during the year 1920 were but $410.30. The expenses are shown as $159.60, and the net earning $250.70. The amount given as expenses is only for actual labor used in handling the tonnage in and out of the warehouse, and represents no compensation whatever to the owners of the property, nor is there included in the operating expenses any salaries for managing the property.

The Commission is of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

ORDER.

It is hereby ordered, that Joseph A., Chas. S., George A., John G., and Annie Mast, operating under the fictitious name of Mast Warehouse, be and the same are hereby authorized to publish and file in accordance with the rules and regulations of the Railroad Commission within twenty (20) days from date hereof a rate of $1.25 per ton for the storage of grain per season, June first to May thirty-first, which rate is found to be just and reasonable.

Dated at San Francisco, California, this twenty-ninth day of September, 1921.

DECISION NO. 9577.

IN THE MATTER OF THE APPLICATION OF TUOLUMNE COUNTY ELECTRIC POWER AND LIGHT COMPANY, A CORPORATION, FOR INCREASE IN RATES.

Application No. 6734.

Decided September 30, 1921.

J. B. Cuttin, for Applicant.

J. T. B. Warne, City Attorney, for City of Sonora.

MARTIN, *Commissioner*.

OPINION.

Tuolumne County Electric Power and Light Company, hereinafter referred to as applicant, requests authority to charge for electric service delivered to its consumers the same rates that are now in effect on the system of Pacific Gas and Electric Company, lessee, in adjacent territory; alleging as sufficient reason for the increase that its rates were last fixed in 1913 and that since that time the rate which it pays

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for electric power purchased, the rate of taxation and the salaries and wages of its employees, have all been increased.

Tuolumne County Electric Power and Light Company purchases electric energy wholesale at Sonora from the system of Sierra and San Francisco Power Company, now operated under lease by Pacific Gas and Electric Company, and serves some seven hundred and fifty retail consumers in Sonora, Jamestown, and vicinity. This territory is in the original mining district of California and although agricultural and lumbering industries have been developed to quite an extent applicant's business still varies considerably with the operation of the mines. The depression in the mining industry of the past few years now appears to be passing and a corresponding increase is shown in applicant's gross revenue in the first six months of the current year as compared with the corresponding period of the previous year.

The rates of Tuolumne County Electric Power and Light Company were last before the Commission in Case No. 372, *V. A. Solari et al.* vs. *Tuolumne County Electric Power and Light Company,* decided July 29, 1913 (Decision No. 834, Volume 3, page 188, Opinions and Orders of the Railroad Commission). This decision contains a full description of applicant's property, a discussion of its value and of reasonable operating expenses under the conditions then existing. The rates established in that decision are still in effect, applicant having refrained from applying for authority to increase them in the hope that conditions would return to normal and an increase would not be necessary.

The rate which applicant paid for purchased energy was at the time of the previous decision $1.25 per kilowatt hour. In 1918 Sierra and San Francisco Power Company was authorized to increase this rate by the addition of a surcharge of 1.5 mills per kilowatt hour, and in 1920 Pacific Gas and Electric Company, which had in the meantime leased the property of Sierra and San Francisco Power Company, was authorized to further increase the rate by 15 per cent. Effective April 10, 1921, this last increase was reduced to 6 per cent, making the rate now paid slightly less than 1.5 cents per kilowatt hour. The net result, based on applicant's 1920 consumption, is an increase in operating expenses of about $1,200 per year.

Increases in taxes since the previous decision have further increased the operating expenses by about $750 a year.

Operating as it does a comparatively small system, consisting of a distribution system only, applicant has a total of but nine employees, and personal contact between the management and the employees and the friendly relations maintained made possible the postponement of

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salary and wage increases long since necessary in the case of larger utilities. Small increases in salaries and wages were made at various times until about August, 1920, when it became necessary to bring the amounts paid more nearly in line with the wages paid by other utilities and in other industries. While the wages and salaries now in effect are about 75 per cent higher than at the time of the previous decision, comparison with similar payments in other localities shows them to be very reasonable. In connection with its public utility business applicant operates a contracting and merchandise business and as the same men engage in the work of both departments only part of the increase in wages will fall on the utility business.

In the previous decision the value of applicant's system for rate-making purposes was found to be $34,475, which included an allowance of $1,975 for the purchase of electric meters which would be required to completely eliminate the flat-rate system then partially in effect. In Exhibit 2, filed in this proceeding, applicant shows an additional investment totaling $14,346.17. An examination of the books by an engineer of the Commission shows that many items which might properly have been considered as charges to capital were treated as replacements of property and entirely included in operating expenses, with the result that this figure for additional investment is undoubtedly too low. However, as all of the items charged to maintenance are included in operating expenses and are covered by rates, no injustice to applicant will result from the use of the book figure for the increase in capital. The resulting figure for the fair value of the property as of December 31, 1920, is $46,846. At the time of the last decision a net revenue of $3,792 was found reasonable to cover interest and depreciation and under ordinary conditions this sum could now be increased substantially in proportion to the increase in capital. As above pointed out, however, many items covering replacements of property which would ordinarily be charged to capital and to depreciation reserve are on applicant's books charged entirely to maintenance. The evidence clearly shows that although the Commission in fixing the existing rates made what it considered a proper allowance for the building up of a depreciation, reserve charges are seldom, if ever, made against such a reserve. While this is to a certain extent a matter of accounting detail, it is evident that if operating expenses are allowed as they appear in applicant's records and at the same time the allowance for depreciation as heretofore made is continued there will be a duplication of charges against applicant's consumers. The full allowance for depreciation as made in the past need not be continued and it is my conclusion that a net annual revenue of $5,000 may,

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for the purposes of this proceeding, be considered as ample for depreciation and return. In addition, the sum of $263.77 per year allowed in the previous decision for the amortization over a ten-year period of the value of the line from an abandoned generating plant should be continued.

The following table, compiled from figures submitted by applicant shows the effect of the increase in its expenses and also the revenues and expenses which the evidence shows are likely to obtain in the immediate future:

TABLE I.

Tuolumne County Electric Power and Light Company: Revenues and Expenses—Actual and Estimated.

	January-June, 1920	January-December, 1920	January-June, 1921	Estimate for one year
Revenue	$12,628 17	$26,155 70	$13,684 17	$28,200 00
Expense:				
Electric energy	3,565 80	7,389 20	4,150 78	8,070 00
Superintendence and labor	1,550 00	3,800 00	2,200 00	4,400 00
Repairs and maintenance	2,585 74	5,278 24	3,015 43	6,025 00
Miscel. general expense	1,505 27	2,898 06	1,638 71	3,275 00
Taxes	789 26	1,437 32	1,034 40	2,225 00
General officers' salaries	100 00	200 00	100 00	200 00
Insurance	101 08	202 16	98 45	200 00
Legal expense	175 00	350 00	125 00	250 00
Total	$10,472 15	$21,554 98	$12,362 77	$24,645 00
Net for depreciation and return	2,156 02	4,600 72	1,321 40	3,555 00

From the above it will be noted that in spite of an increase in investment of about 50 per cent the net earning available for depreciation and return will be less than that allowed nine years ago, and falls about $1,500 short of the amount already found reasonable. This is a time when any modification in prices is expected to be downward, but it must be remembered that the general decrease in prices is occasioned entirely by the passing of the high prices which prevailed during the war and the period of inflation immediately following, while in the case of this applicant there has been no increase in rates since 1913. The prices of but very few commodities have remained at pre-war levels and the price of applicant's service could hardly have done so except for the unusual circumstances which existed.

Careful consideration of applicant's probable revenues and expenses and the effect of a change to the present rates of the Pacific Gas and Electric Company, lessee, shows that the entire amount of increase applied for will not be required. A large proportion of applicant's revenue comes from the sale of electricity for lighting and the rate schedule in the order which accompanies this opinion, while lower than

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that applied for, is designed to afford all necessary relief. This schedule provides a rate of 9½ cents per kilowatt hour for the first thirty kilowatt hours per month, as compared with the rate of 8 cents per kilowatt hour for the first fifty kilowatt hours per month now in effect on applicant's system and the corresponding rate of 10.6 cents on the system of The Sierra and San Francisco Power Company.

I recommend the following form of order:

ORDER.

Tuolumne County Electric Power and Light Company having applied to the Railroad Commission for authority to increase its rates for electric service, a public hearing having been held, the matter having been submitted and being now ready for decision:

The Railroad Commission hereby finds as a fact that Schedule "A" of Tuolumne County Electric Power and Light Company is unjust and unreasonable in so far as it differs from the rate herein set forth, which is hereby found to be a just and reasonable rate for electric lighting service supplied by Tuolumne County Electric Power and Light Company.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Tuolumne County Electric Power and Light Company be and it is authorized to cancel its existing Schedule "A" and in lieu thereof to charge and collect for electric lighting service the following rate, effective for bills based on meter readings taken on and after October 25, 1921:

SCHEDULE "A"

General Lighting Service.

Applicable to general residence and commercial lighting service in the entire territory served by the company.

The first 30 kilowatt hours per meter per month	9.5 cents per kilowatt hour
The next 120 kilowatt hours per meter per month	7 cents per kilowatt hour
The next 150 kilowatt hours per meter per month	5 cents per kilowatt hour
All over 300 kilowatt hours per meter per month	3 cents per kilowatt hour

Minimum Charge.

In the city of Sonora	$1 00 per meter per month
Outside of the city of Sonora	1 25 per meter per month

The foregoing opinion and order are approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of September, 1921.

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DECISION NO. 9583.

IN THE MATTER OF THE APPLICATION OF NELSON M. VAN FLEET, AS SOLE SURVIVING TRUSTEE, FOR CALIFORNIA VINEYARDS AND IMPROVEMENT COMPANY, A DEFUNCT CORPORATION, TO ASSIGN AND TRANSFER ALL OF ITS PROPERTY TO NELSON M. VAN FLEET.

Application No. 7083.

Decided October 3, 1921.

Leonard, Surr and Hellyer, by *George W. Hellyer*, for Applicant.
L. Baird, for Daisy S. Baird.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make its order authorizing Nelson M. Van Fleet to acquire the properties of California Vineyards and Improvement Company, a defunct corporation.

A public hearing was held before Examiner Williams in Los Angeles on September 26, 1921.

The record shows that California Vineyards and Improvement Company, which was incorporated on January 19, 1907, forfeited its charter in March, 1921, for nonpayment of its franchise tax. At that time, Nelson M. Van Fleet owned all of the outstanding stock of a par value of $2,560, with the exception of four shares held by directors. Following the forfeiture of the charter, these four shares were transferred and assigned to Nelson M. Van Fleet, who thus became sole owner of all the outstanding stock and trustee of the properties.

The testimony of Benton Ballou, formerly secretary of California Vineyards and Improvement Company, shows that of the authorized stock issue of $150,000, only about two-fifths had ever been issued, and that of this amount all but 2560 shares ($2,560) had been reacquired by the company for nonpayment of assessments levied upon the stockholders.

L. Baird, representing Daisy S. Baird, formerly a stockholder in the company, entered an appearance to ascertain whether the assessments had been paid on the $2,560 of stock held by Van Fleet. After the testimony had been given, Mr. Baird expressed himself satisfied that these assessments had been paid and withdrew any objection to the proposed transfer.

California Vineyards and Improvement Company has been distributing water for domestic use to the inhabitants of North Cucamonga, San Bernardino County, as a public utility. The record shows that there are about 80 services on the system, all metered, and that the gross annual income is about $1,152.

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The properties consist of 20 shares of stock of Cucamonga Water Company, a mutual concern—the source of supply of this utility—and a small distributing system, all of an estimated value of $3,000. On account of the small operations, Nelson M. Van Fleet is of the opinion that service can be more economically and efficiently given if performed by an individual, rather than by a corporation.

It is, of course, understood that the granting of this application does not relieve Nelson M. Van Fleet of the public utility duties formerly performed by California Vineyards and Improvement Company.

ORDER.

Application having been made to the Railroad Commission for authority to transfer property, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted;

It is hereby ordered, that Nelson M. Van Fleet, as trustee for the stockholders of California Vineyards and Improvement Company, be and he is hereby authorized to transfer and assign, and Nelson M. Van Fleet individually be and he is hereby authorized to acquire all the properties formerly owned by California Vineyards and Improvement Company and now held by Nelson M. Van Fleet as trustee.

The authority herein granted is subject to the following conditions:

(1) Nelson M. Van Fleet, within thirty days after the transfer of the properties herein authorized, shall file with the Commission a verified copy of the instrument by which such transfer is effected.

(2) The authority herein granted shall not be interpreted as relieving Nelson M. Van Fleet as successor of California Vineyards and Improvement Company, of any of the public utility duties or obligations formerly performed by, or encumbent upon, California Vineyards and Improvement Company.

(3) The authority herein granted shall apply only to such properties as may be transferred on or before November 15, 1921.

Dated at San Francisco, California, this third day of October, 1921.

DECISION NO. 9584.

IN THE MATTER OF THE APPLICATION OF BAY CITIES TRANSPORTATION COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE COMMON STOCK.

Application No. 7189.

Decided October 4, 1921.

James A. Ballentine, for Applicant.

BENEDICT, *Commissioner.*

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OPINION.

In this application, Bay Cities Transportation Company asks permission to issue $49,997 of its capital stock to Phebe M. Rideout.

Bay Cities Transportation Company was incorporated on or about June 27, 1916, with an authorized capital stock of $50,000 divided into 50,000 shares of the par value of one dollar each. The company was originally incorporated under the name of the B Line Transfer Company, but subsequently the Superior Court in and for the city and county of San Francisco made and entered its judgment and decree changing the name of the applicant to Bay Cities Transportation Company.

Applicant's business consists of the transportation of freight between San Francisco and Oakland and of a general drayage business. As of August 1, 1921, it reports assets and liabilities as follows:

Assets:		
Franchise	$9,000 00	
Equipment	46,753 61	
Cash	7,503 53	
Accounts receivable	15,658 63	
Supplies	605 00	
Unearned insurance	1,118 65	
Total assets		$80,639 42
Liabilities:		
Capital stock	$50,000 00	
Premium on stock	7,095 98	
Notes payable	5,000 00	
Accounts payable	6,570 00	
Surplus	11,973 38	
Total liabilities		$80,639 42

It is, of course, understood that the Railroad Commission does not, at this time, pass upon the values claimed by applicant for its assets, and especially as to the value claimed for the item of "franchise."

The record shows that in July, 1916, Phebe M. Rideout transferred and assigned to applicant certain properties in exchange for $16,000 of stock. These properties, which had an estimated value in excess of $16,000 and which are reported necessary and useful to applicant, are described in Exhibit "A" filed in this proceeding.

It further appears that since July, 1916, Phebe M. Rideout has advanced to applicant the sum of $41,092.98, in payment of which Phebe M. Rideout has agreed to accept the remaining unissued stock of $33,997. V. M. Schroeder, applicant's secretary, testified that the $41,092.98 was used to purchase barges, motor trucks and other equipment, and to maintain and improve the company's service and facilities.

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Applicant has heretofore filed with the Commissioner of Corporations, applications for permission to issue the $49,997 of stock, and has received such permission from the Commissioner.

The $49,997 par value of stock was issued to Phebe M. Rideout in payment for the properties and advances mentioned under the authority granted by the Commissioner of Corporations. Through inadvertence or misunderstanding, the company did not until recently file an application with this Commission. I am of the opinion that stock issued by applicant without an order from the Railroad Commission is void under section 52 of the Public Utilities Act, and that applicant should cancel the stock certificates heretofore issued and issue new certificates in lieu thereof. I find that the assets of Bay Cities Transportation Company are ample to permit of the issue of the $49,997 of stock.

I herewith submit the following form of order:

ORDER.

Bay Cities Transportation Company having applied to the Railroad Commission for permission to issue $49,997 of stock, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Bay Cities Transportation Company be and it is hereby authorized to issue to Phebe M. Rideout, on or before December 31, 1921, 49,997 shares ($49,997) of its capital stock to pay for the properties described in Exhibit "A" and refund the $41,092.98 of advances made by her; provided,

(1) That the stock certificates issued without an order from the Railroad Commission be returned to applicant's treasury and canceled, and the stock herein authorized issued in lieu thereof.

(2) That Bay Cities Transportation Company keep such record of the issue and disposition of the stock herein authorized as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of October, 1921.

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DECISION NO. 9585.

IN THE MATTER OF THE APPLICATION OF THE POSTAL TELEGRAPH-CABLE COMPANY FOR PERMISSION TO ABANDON CERTAIN OFFICES.

Application No. 7221.

Decided October 4, 1921.

BY THE COMMISSION.

OPINION.

Applicant herein seeks to abandon certain offices heretofore maintained in the State of California under a contractual arrangement with the Atchison, Topeka and Santa Fe Railway, the assignee and successor in interest of the San Francisco and San Joaquin Railway. This contract was executed in 1895, has now expired, and the railroad company has made arrangements with the Western Union Telegraph Company for continuance of the telegraph service heretofore rendered by the Postal Company at the stations in question. Under such circumstances, it is apparent that the public interest will not be injuriously affected by the change, and that the application should be granted. We do not believe that a public hearing is necessary, but will require that reasonable notice be given to the public of the change in service.

ORDER.

Application having been filed by the Postal Telegraph-Cable Company for permission to abandon certain offices, and it appearing to the satisfaction of the Commission that this is not a matter in which a public hearing is necessary, and that the application should be granted;

It is hereby ordered, that the applicant be and it is hereby authorized to permanently discontinue service and to abandon the offices heretofore maintained by it at the following named stations on the line of the Atchison, Topeka and Santa Fe Railway Company:

Allensworth, Angiola, Antioch, Bay Point, Bowles, Corcoran, Conejo, Cutler, Del Rey, Denair, Escalon, Empire, Glen Frazer, Guernsey, Holt, Hughson, Knightsen, Laton, Le Grand, Merced, Middle River, Muir, North Dinuba, Oakley, Orwood, Parlier, Pinole, Pittsburg, Planada, Riverbank, Reedley, Richmond, Shafter, Sharon, San Pablo, Storey, Sultana, Tulare, Wasco, Waukena, and Winton.

Provided, that said discontinuance of service and the abandonment of offices shall be done as of midnight, October 15, 1921, and that at least seven (7) days prior to said discontinuance and abandonment the applicant shall cause to be posted in each of said offices a notice to the public, stating that such service will be terminated and that the

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service of the Western Union Telegraph Company will be thereafter substituted.

Dated at San Francisco, California, this fourth day of October, 1921.

DECISION NO. 9586.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA OREGON POWER COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING THE ISSUANCE OF BONDS.

Application No. 7169.

Decided October 4, 1921.

Morrison, Dunne and Brobeck, by *Herman Phleger*, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

The California Oregon Power Company asks permission to issue $151,000 of its Series "A" first and refunding mortgage gold bonds. The company proposes to sell the bonds at not less than 95 per cent of face value plus accrued interest, and to use the proceeds to reimburse its treasury on account of moneys expended to retire underlying bonds.

The $151,000 of bonds are part of an authorized issue of $10,000,000 of first and refunding mortgage sinking fund gold bonds, and are secured by a mortgage which the Railroad Commission authorized to be executed by Decision No. 9190, dated June 30, 1921, as amended. The bonds it is now proposed to issue are dated February 1, 1921, bear interest at 7½ per cent per annum, mature February 1, 1941, and are subject to redemption on any interest date upon the payment of principal and interest and a premium of 10 per cent if redeemed prior to February 1, 1931, and of principal and interest and a premium equal to 1 per cent of the principal thereof for each year or fraction of the unexpired term, if redeemed subsequent to February 1, 1931.

The mortgage, among other things, reserves $1,151,000 of bonds for the purpose of retiring, refunding or discharging underlying bonds. The amount of underlying bonds outstanding on the date of the execution of the mortgage is reported as follows:

(*a*) $618,000 of Rogue River Electric Company 5 per cent bonds, due July 1, 1937;
(*b*) 135,000 of Siskiyou Electric Power Company 6 per cent bonds, due January 1, 1923;
(*c*) 53,000 of Siskiyou Electric Power and Light Company 5 per cent bonds, due May 1, 1938;
(*d*) 345,000 of Klamath Power Company 6 per cent bonds, due April 1, 1931.

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The testimony of John D. McKee, applicant's president, shows that on the date of the execution of applicant's first and refunding mortgage, there was due the sinking fund of the Siskiyou Electric Power Company bonds, the sum of $56,700; of the Siskiyou Electric Power and Light Company bonds, the sum of $4,240; of the Klamath Power Company bonds, the sum of $99,750; that subsequently these sinking fund payments were made; and, further, that there has been retired through the operations of the sinking funds $7,000 of Rogue River Electric Company bonds, $78,000 of Siskiyou Electric Power Company bonds, and $75,000 of Klamath Power Company bonds, leaving outstanding $991,000 of underlying bonds. These $160,000 of underlying bonds were retired at a cost of $157,370.

He also reports that the company has deposited with the trustee a sufficient amount of money to retire the entire amount of outstanding bonds of Siskiyou Electric Power Company and Siskiyou Electric Power and Light Company. This money was deposited for the reason that the bonds of these two companies constitute a lien on the Copco plant, and it became necessary to arrange for their payment so as to make the new first and refunding mortgage a first lien on these properties.

In addition to the $991,000 of underlying bonds, applicant reports issued and outstanding the $1,849,000 of first and refunding bonds which were authorized to be issued by Decision No. 8731, dated March 10, 1921, as amended. As stated, applicant, at this time, desires to refund underlying bonds only to the extent of $151,000. John D. McKee testified that neither the total outstanding bonded debt of the company nor the effective interest rate paid by applicant would be increased.

Applicant reports that it has outstanding $6,661,100 of stock, consisting of $4,441,100 of common and $2,220,000 of 7 per cent nonassessable preferred stock. In Decision No. 8723, dated March 10, 1921, pursuant to which this stock was issued, the cost or value of the properties of California Oregon Power Company, applicant's predecessor, is reported at $7,693,070.84.

I believe the application should be granted and herewith submit the following form of order:

ORDER.

The California Oregon Power Company having applied to the Railroad Commission for permission to issue $151,000 of bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes

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are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that The California Oregon Power Company be and it is hereby authorized to issue and sell, on or before December 31, 1921, at not less than 95 per cent of face value, plus accrued interest, $151,000 of its Series "A" first and refunding mortgage bonds and to use the proceeds to reimburse its treasury because of moneys expended to pay underlying bonds referred to in this application.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, verified reports, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $151.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of October, 1921.

DECISION NO. 9587.

O. P. MILLS

vs.

SAN JOSE WATER WORKS AND T. H. HERSCHBACH.

Case No. 1609.

Decided October 4, 1921.

WATER UTILITY—INTRUSION INTO TERRITORY.—It is held that where a district lies within the service area of two utilities, the wishes of the persons desiring the service are controlling.

E. M. Rosenthal, for Complainant.
Joseph R. Ryland, for San Jose Water Works.
Henry G. Hill, for T. H. Herschbach.

BY THE COMMISSION.

OPINION.

O. P. Mills, the complainant in the above entitled proceeding, owns and operates a public utility water system in a district adjacent to the city of San Jose, more particularly described as the area bounded by Malone road, Lincoln avenue, Minnesota avenue, Northern road and

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Almaden avenue. He alleges to have served this area for the past 20 years.

Defendant Herschbach is subdividing a tract of land adjacent to the intersection of Minnesota and Lincoln avenues and within the territory alleged to have been served by Mr. Mills. Complainant alleges it is contemplated that the San Jose Water Works will construct pipes and serve this subdivision, thereby depriving him of business to which he is rightfully entitled, the loss of which will cause him injury and damage, and asks in effect that this Commission prevent the intrusion of the San Jose Water Works into the territory described.

Both defendants filed answers in which they enter a general denial of the allegations of the complaint.

A public hearing was held in this matter at San Jose on September 14, 1921, by Examiner Satterwhite.

It appears from the evidence that although complainant has served consumers in the vicinity of the subdivision now being placed upon the market by defendant Herschbach, he has never served consumers located upon this tract itself. It appears that the San Jose Water Works also has mains in this vicinity, and has actually served the only consumer of water heretofore located upon the tract in question. It also appears that of the two utilities available for service at this location, the owner prefers the service of the San Jose Water Works to that of complainant.

From the evidence it seems clear that the service habitually furnished by the San Jose Water Works is at least equal if not superior to that furnished by the complainant. San Jose Water Works intends to inaugurate a program of construction in this vicinity, with the idea of increasing the capacity of mains and also increasing the area capable of being served. As a result of this expressed intention on the part of the San Jose Water Works, several residents of Lincoln avenue have applied to this company for service, although the mains of complainant lie in the street in front of their property.

It would therefore appear from the foregoing that the tract, over the service of which the present controversy has arisen, lies within the service area of each of these utilities; that the defendant, San Jose Water Works, is better able to furnish high-grade service than is complainant; that the preference of the owner of this tract is for the service of the San Jose Water Works, and that the only service to this tract heretofore given was by this company. In view of these circumstances it seems but fair that the wishes of the persons desiring service be respected, since no obligation exists compelling them to receive service from complainant, Mills.

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ORDER.

O. P. Mills, owner and proprietor of a public utility, having complained to this Commission of an alleged invasion of territory by another utility, namely, the San Jose Water Works, and in effect praying for an order restraining San Jose Water Works and T. H. Herschbach from installing water mains and rendering water service on a certain tract adjacent to the corner of Lincoln and Minnesota avenues, a public hearing having been held and the matter having been submitted and being now ready for decision, and it appearing to this Commission that the complaint herein should be dismissed;

It is hereby ordered, that the complaint herein be and it is hereby dismissed.

Dated at San Francisco, California, this fourth day of October, 1921.

DECISION No. 9593.

IN THE MATTER OF THE FAILURE OF WOODWORTH CAMPBELL, AGENT, IN THE NAME AND ON BEHALF OF N. FAY AND SON; WHEELER TRANSPORTATION COMPANY; VEHMEYER TRANSPORTATION COMPANY; RIO VISTA LIGHTERAGE COMPANY; HERINGER AND SCOTT; AND ISLAND TRANSPORTATION COMPANY, COMMON CARRIERS, TO COMPLY WITH THAT PART OF DECISION NO. 7986, OF AUGUST 23, 1920, OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, DIRECTING AND REQUIRING EACH OF SAID APPLICANTS IN THE PROCEEDING COVERED BY SAID DECISION TO KEEP METHODICAL AND COMPREHENSIVE RECORDS OF REVENUES AND EXPENSES, AND ON MARCH 15, 1921, TO FURNISH THE COMMISSION WITH A FULL REPORT OF REVENUES, EXPENSES, VALUATION OF PROPERTY, DEPRECIATION ACCOUNT, ETC., COVERING OPERATIONS UNDER THE INCREASED RATES AUTHORIZED IN AFORESAID DECISION, FOR THE FIRST SIX MONTHS, SEPTEMBER, 1920, TO FEBRUARY, 1921, INCLUSIVE.

Case No. 1641.

Decided October 6, 1921.

(On the Commission's own motion.)

WATER TRANSPORTATION RATES—TEST OF REASONABLENESS.—The test of the reasonableness of an entire rate structure covering the traffic of a number of competing carriers is the result obtained from the business as a whole. This differs from the test of reasonableness of individual rates on specific commodities between definite points.

RATES—REASONABLENESS OF—VOLUNTARY REDUCTION RECOMMENDED.—While finding the rates complained of not unreasonable from the standpoint of net results to the companies, the Commission recommended that the carriers offer a voluntary reduction of 20 per cent on principal commodities as a matter of public policy and to meet economic conditions.

Frank S. Brittain and T. C. Nelson, for Solano County Farm Bureau et al., Complainants, and California Farm Bureau Federation.

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Sanborn, Rochl and Smith, by *Arthur B. Rochl*, for River Transportation Company, Fred F. Ball, Heringer and Scott, Island Transportation Company, Rio Vista Lighterage Company, Sheckler-Hoffman Transportation Company, and Wheeler Transportation Company, Defendants.
Creed, Jones and Dall, by *C. G. Dall*, for N. Fay and Son, Defendants.
J. C. Sommers, for Stockton Chamber of Commerce.

LOVELAND AND MARTIN, *Commissioners*.

OPINION.

This is a proceeding initiated under date July 11, 1921, on this Commission's own motion, calling upon carriers named above to appear and show cause for failure to comply with the terms of Decision No. 7986, in Application No. 5841, decided August 23, 1920.

In this decision applicants were instructed to keep methodical and comprehensive records of revenues and expenses and to furnish the Commission, on March 15, 1921, with a full report of the revenues and expenses, and the valuation of the property, depreciation, etc., covering operations under the rates authorized in the decision for the six months' period, September, 1920, to February, 1921, inclusive. From these reports the Commission was to determine whether or not further action would become necessary in connection with the rates authorized. The increases permitted to go into effect August 27, 1920, were estimated to range from 24 per cent to 26 per cent.

At the time this citation was issued the carriers named in this proceeding had failed to fully comply with the Commission's order, for the reports submitted were entirely unsatisfactory and did not give the information sought.

Prior to Decision No. 7986 (Application No. 5841) this Commission had rendered, August 17, 1920, its Decision No. 7983, in Application No. 5728, wherein practically all rail and many boat common carriers within the State of California were authorized to increase rates in line with the increases authorized by the Interstate Commerce Commission in its Decision of July 29, 1920, Docket *Ex parte* 74, which increases were granted under the provisions of Transportation Act, 1920 (Esch-Cummins Act). The general increases authorized by Decision No. 7983 were 25 per cent in all freight rates and 20 per cent in all passenger fares, and included with the carriers were a number of boat lines, defendants in this proceeding; also the regular standard lines—California Navigation and Improvement Company, California Transportation Company, Farmers Transportation Company, Sacramento Transportation Company, Producers Transportation Company, and Southern Pacific Company. These six companies operate in the same competitive territory and, therefore, any order issued in this proceeding affecting the rates of defendants would naturally be reflected in the operating revenues of the competing lines.

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The situation which brought about the present proceeding resulted from Case No. 1616, filed June 4, 1921, by the *Solano County Farms Bureau et al.* vs. *River Transportation Company et al.*, calling into question only the rates on specified commodities—grain, beans, onions and potatoes.

Although the two proceedings—Cases Nos. 1616 and 1641—were not consolidated, it was understood that testimony presented in either of the proceedings would be used in the instant case wherever considered relevant. Hearings were held at Stockton on July 6 and at San Francisco in the months of July, August and September, 1921. Transcript of testimony in the two cases covered 896 pages; the defendants in Case No. 1641 presented thirteen exhibits, the Commission, through its auditing department, five exhibits, and in Case No. 1616 complainants filed five exhibits and the Commission one. Briefs have been received and the matter is now ready for a decision.

All of the defendants have furnished, for the period covered by the order, information as to their property investment, the volume of traffic, operating revenues and expenses. It would serve no good purpose to reproduce the statements, but mention will be made of the results:

	Value of Property	Periods covered by reports 1920 and 1921	Number of Months	Net operative revenues	Depreciation
N. Fay and Son	$69,400 00	Aug. 31 to July 1	10	$4,370 00	Included
Wheeler Transportation Company	37,962 90	Oct. 1 to July 1	9	6,606 79	Included
Vehmeyer Transportation Company	28,150 66	Aug. 27 to Feb. 27	6	*163 65	None
Rio Vista Lighterage Company	83,705 00	Sept. 1 to July 1	10	2,518 89	Included
Heringer and Scott Company	36,332 62	Sept. 1 to July 1	10	*18 10	None
Island Transportation Company	696,751 99	Aug. 27 to May 27	9	11,400 47	None

*Loss.

Three of the companies included depreciation in their expense items, while three did not, and of the six companies only two, the Wheeler Transportation Company and N. Fay and Son, show satisfactory net results after payment of all expenses and depreciation.

The records and books of the principal defendants were checked by our auditing department, but the results obtained were not materially different from those set forth in the statements filed as exhibits by defendants. In two cases interest items were erroneously charged as operating expenses, but elimination of the amounts creates no vital change in the net results.

The companies are not keeping books in accordance with any classification of accounts and it was impossible to make a positive check of the revenues and expenses; the data assembled by the audit investigation was secured from memorandum day books. A number of the

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carriers, because of the small volume of business handled, do not employ bookkeepers.

The annual reports of the five companies not included in this proceeding operating regularly at points between San Francisco and Sacramento, viz, the California Navigation and Improvement Company, California Transportation Company, Farmers Transportation Company, Sacramento Transportation Company and Producers Transportation Company, show that three of them suffered a net loss after charging out depreciation, and two of these three companies did not earn sufficient to even pay operating expenses and taxes. The net results obtained by operation of the Southern Pacific Company boats are not obtainable; the annual reports of this company do not reflect a segregation of the operation of the boat lines as distinct from the revenues of the company as a whole.

For the purposes of this opinion we deem it unnecessary to enter into an extensive discussion of the testimony and exhibits dealing with the valuation of the properties, for the reason that the total net operating revenues and the corporate income of the twelve common carrier companies operating in this competitive territory do not produce a satisfactory or reasonable return upon the investments necessary to continue the service. There are, however, certain aspects of the situation which in our judgment are worthy of reflection.

The testimony given in this proceeding and in others dealt with by the Commission within the past few years involving the rates for these companies would indicate that during the summer months the boats of the combined carriers have been unable in normal years to properly and promptly handle all of the tonnage offered and that more boats could be used during the peak season for a short period of time if they were available. This situation was gone into in considerable detail in Application No. 2924, Southern Pacific Company to increase steamer rates between San Francisco and Sacramento, Decision No. 4968, decided December 17, 1917 (14 C. R. C. 742). The evidence would also indicate that the traffic is one way and that full cargoes in both directions are the exception rather than the rule.

To move practically a season's traffic within a short period of time necessitates considerable expenditure for equipment, and much of this equipment remains idle for the greater portion of the year, but must be provided in order to properly perform the service demanded by the public. Defendants contend these conditions and the uncertainties of the tonnage demonstrate that the present rates are not excessive and that they can not be reduced. As illustrative of the situation, the Rio Vista Lighterage Company had a prosperous year during 1920, due to the fact that they carried between 120,000 and 130,000 head of sheep,

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while at the time the hearing was held they had handled but 2200 sheep, and estimated that the entire number to be carried during the year 1921 would not be in excess of 10,000, as compared with a total of 130,000 in the year 1920. Notwithstanding the great falling off in the business, equipment must be provided to handle the traffic when it does offer.

Two of the defendants, Wheeler Transportation Company and Island Transportation Company, are engaged in outside activities, the Wheeler Transportation Company handling through its office certain services of competing lines, for which it receives a commission, and it is claimed the earnings from this branch of the service should not be reflected in the net results of common carrier activities. The Island Transportation Company, as a side line, engages in the buying and selling of wood, and the wood when transported on its boats is charged the regularly published tariff rates, therefore, any net profit received from the wood operations can not be included in the net revenue of the common carrier boats. It is difficult to separate accurately these outside activities where the financial relationships are so close as in the present case and the employees of the common carrier are used in performing, in part, the business devoted to this outside service. It would seem, however, that proper amounts for handling this extra service should be charged and this the defendants claim to have done. The protestants, in their briefs, would add these outside earnings to the net of the operating companies and have endeavored by this method to show there has been a fair net profit. We do not believe, however, that this procedure is proper or would be sustained in law, the defendants having shown, or endeavored to show, by the testimony that the burden of conducting these outside activities is not being paid out of the common carrier fund.

Protestants presented but little testimony or exhibits as to the reasonableness of the rates involved, making their record upon the economic necessities of the situation; the only testimony introduced at the preliminary hearing, at Stockton, on July 6, 1921, with reference to the rates was in connection with an exhibit showing the rates as of September 17, 1918, as compared with the rates in effect at the present time.

By their testimony and exhibits defendants met the issue as to the reasonableness of the entire rate structure by showing the results obtained in the handling of the business as a whole. There is a great difference in the character of testimony required to test the reasonableness of an entire rate schedule covering all traffic of a number of competing carriers and that required to test the reasonableness of individual rates on selected commodities between definite points, and whether

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a readjustment of the entire schedule of rates can be made depends largely upon whether the gross amount of tonnage carried affords the carrier, inclusive of operating expenses, taxes and depreciation, a reasonable return upon the value of the property devoted to the public service.

The Interstate Commerce Commission in *Railroad Commission of Kansas* vs. *Atchison, Topeka and Santa Fe,* 22 I. C. C. 407-410, said:

> The railway may not impose an unreasonable transportation charge merely because the business of the shipper is so profitable that he can pay it; nor, conversely, can the shipper demand that an unreasonably low charge shall be accorded him simply because the profits of his business have shrunk to a point where they are no longer sufficient.
>
> The effect of a rate upon commercial conditions, whether an industry can exist under particular rates or a particular adjustment of rates, are matters of consequence, and facts tending to show these circumstances and conditions are always pertinent. But they are only a single factor in determining the fundamental question. A narrowing market, increased cost of production, overproduction, and many other considerations may render an industry unprofitable, without showing the freight rate to be unreasonable.

The rates here complained of have not been shown to be unreasonable, judged from the standpoint of net results to the transportation companies. We believe, however, that very careful consideration should be given by the carriers to a voluntary reduction as a matter of public policy, although the record shows transportation facts which would not, in law, warrant this Commission to order the reductions.

Furthermore, it would appear that tonnage is now being diverted to automobile trucks and to the competing rail carriers because of the present high freight rates. We, therefore, recommend that defendants herein give consideration to reductions in the principal commodities of at least 20 per cent to meet the present economic situation for the benefit of defendants and the shipping public and thus assist in a return to normal conditions.

Each of the defendants in this proceeding will furnish the Commission with statements of revenues and expenses for calendar months beginning with October, 1921, and continuing until further notice, the statements to be filed in the office of the Commission not later than the fifteenth day of the following month; books to be kept in a systematic manner and the data covering each transaction carried in such detail as to be readily checked by the Commission's accounting department. The following classification shall be employed in making the monthly reports, viz:

Revenue—segregated as to freight, passenger, towing, rentals and miscellaneous.

Expenses—segregated as to labor, fuel, repairs and maintenance. Commissary supplies.

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Other supplies.
Dockage and wharfage.
Rents.
Officers' salaries.
Office expenses.
Agency expenses.
Insurance.
Loss and damage.
Taxes.
Miscellaneous.

The record will be held open for such further action as may seem necessary.

ORDER.

This proceeding having been instituted by the Commission on its own motion, the defendant carriers involved in the matter in interest having filed answers, a full investigation having been had, basing its order on the foregoing findings of fact and the findings of fact contained in the opinion preceding this order;

It is hereby ordered, that N. Fay and Son, Wheeler Transportation Company, Vehmeyer Transportation Company, Rio Vista Lighterage Company, Heringer and Scott, and Island Transportation Company file monthly statements of revenues and expenses as outlined in the opinion, filing same at the office of the Commission on or before the fifteenth day of each month, until otherwise ordered.

It is hereby further ordered, that this proceeding remain open for such further action as may appear necessary.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of October, 1921.

DECISION No. 9599.

IN THE MATTER OF THE APPLICATION OF H. W. MOORE FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT SERVICE BETWEEN STOCKTON AND OAKDALE.

Application No. 6731.
Decided October 14, 1921.

AUTO TRANSPORTATION ACT—CONTRACTS OF EMPLOYMENT.—**The Commission again calls attention to the fact that the Auto Transportation Act does not exempt from its provisions those operating under contracts of employment. This act requires that those wishing to engage in the business of transporting persons or goods for compensation, or as common carriers, over the highways of the state between fixed termini or over a regular route, shall obtain a certificate of public convenience and necessity from the Commission.**

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OPERATING UNDER CONTRACT—IRREGULAR INTERVALS.—It is *held* that operating at irregular intervals under private contract does not carry any exemption from the law. Contracts are construed as mere routing orders.

H. W. Moore, in propria persona.
L. N. Bradshaw, for Southern Pacific Company and Atchison, Topeka and Santa Fe Railway Company.
E. Stern, for American Railway Express Company.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Stockton upon the above entitled application to establish an auto truck service as a common carrier of freight between Stockton and Oakdale, serving Collegeville, Escalon and Valley Home as intermediate points, three round trips per week, on Tuesday, Thursday and Saturday, at a rate of 25 cents per hundred pounds applying to all movements, with a pick-up charge of 50 cents in Stockton, except from wholesale fruit and produce houses. The proposed equipment consists of two 3-ton Autocars, one 2-ton G. M. C. truck, and three 2-ton trailers.

It appears from the testimony that applicant for some time has been carrying perishable goods especially, such as fruit and produce, from the wholesale houses in Stockton to merchants at points to be served. This work has been done from time to time as goods were needed and ordered by twenty-two local merchants who would give him orders to be filled at the Stockton produce houses.

It appears from the testimony that applicant is now hauling from 10 to 15 tons of freight per week at the proposed 25-cent rate and that the Southern Pacific less than carload lot tonnage from Stockton to Farmington, Valley Home, and Holden for the month of May totaled about 28½ tons, and that of the Santa Fe from Stockton to Oakdale for the month of June is shown at less than 9 tons.

Of the points which applicant wishes to serve, each of the rail carriers serves Stockton and Oakdale, the Southern Pacific serving Valley Home and the Santa Fe Escalon as well. The rail class rates are 25 cents, 21 cents, 17½ cents, and 15 cents, respectively, the average rail rate being 18 cents, based on percentages of traffic moving under the several classes. The American Railway Express Company, which serves over both railroads, operates under rates very materially higher than present rail rates or those proposed by applicant.

There is a rail freight service from Stockton daily, except Sunday, by which goods delivered to the Stockton freight houses of either line are delivered at Oakdale at 8 a.m. the next morning. It appeared, however, from Mr. Moore's testimony that orders are frequently placed with him or the wholesale houses by telephone long after the freight houses have closed and that he is able to make delivery at store doors in Oakdale at 8 a.m. the following morning without drayage charge

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or rehandling at either end of the line, a service which neither railroad offers.

The proposed pick-up charge of 50 cents per shipment in Stockton, outside of the wholesale and produce houses, apparently will have little practical effect on the situation, for the reason that most of applicant's Stockton business so far developed is with the produce houses. There is no pick-up or delivery charge proposed at any other point.

Applicant appears to have assumed that he was operating under private contracts of employment and did not require authority from the Commission. Both assumptions were erroneous. The supposed contracts are mere written routing orders from the merchants to the wholesale houses, directing that their goods be shipped by applicant's trucks.

Again we call attention to the fact that the Auto Transportation Act does not exempt from its provisions those operating under contracts of employment. It requires that those wishing to engage in the business of transporting persons or goods for compensation, *or* as common carriers, over the highways of the state between fixed termini *or* over a regular route, should first procure from the Railroad Commission a certificate that public convenience and necessity require the service which they propose to establish. Operations wholly within the limits of an incorporated city or town, and operation of taxicabs, hotel busses or sightseeing busses are the only classes of automotive transportation expressly excepted from the provisions of the act.

There is no suggestion in it that one operating at irregular intervals or one operating under contract of any kind is not subject to regulation. If one engaged in the business of automotive transportation could avoid the regulatory provisions of the law by merely operating at irregular times, a handsome premium would be placed upon poor service to the public, for one of the essentials of transportation service is regularity of operation. The shipping public is entitled to know when and under what conditions transportation is available. As to operating under contract, every shipment involves the establishment of a contractual relation between the shipper or passenger and the carrier. Yet if a carrier could avoid public regulation by executing a contract of any specified type, it would result in defeating the very ends sought by the enactment of the statute regulating the transportation of passengers and property by automotive vehicles. It will not be seriously argued, of course, that the Legislature intended such a result.

In this particular instance it appears that the shippers of the commodities in question prefer to ship perishables by applicant's trucks and receive store door delivery, rather than ship by rail at much lower

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rates, and that they are entitled to an opportunity to patronize an authorized service of that kind.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and now ready for decision,

The Railroad Commission hereby declares that public convenience and necessity require that H. W. Moore operate an automotive freight truck service between Stockton and Oakdale, serving Collegeville, Escalon, and Valley Home as intermediate points.

The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

No vehicle may be operated in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under a contract or agreement satisfactory to the Railroad Commission.

It is hereby ordered, that applicant shall, within fifteen days from the date hereof, file with the Railroad Commission his schedules and tariffs covering said proposed service, which shall be in addition to proposed schedule and tariff accompanying the application, and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operation is extended by formal supplemental order.

The authority contained herein shall not become effective until or unless the above mentioned schedules and tariffs are filed within the time herein limited.

Dated at San Francisco, California, this fourteenth day of October, 1921.

DECISION No. 9604.

IN THE MATTER OF THE APPLICATION OF SOUTH LOS ANGELES LAND AND WATER COMPANY FOR ORDER AUTHORIZING ISSUE OF STOCKS AND BONDS.

Application No. 7208.

Decided October 14, 1921.

W. A. Robertson, for Applicant.

BY THE COMMISSION.

OPINION.

South Los Angeles Land and Water Company asks permission to issue and sell $10,000 of its 6 per cent bonds.

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A public hearing was held before Examiner Williams in Los Angles on October 7, 1921.

The company, which was organized on or about July 23, 1914, is engaged in the business of distributing water in and about the city of Vernon, Los Angeles County. On December 31, 1920, it reported 2589 consumers. Applicant has an authorized stock issue of $300,000, of which $75,000 is outstanding. On its outstanding stock, applicant has paid since 1918 an annual dividend of 8 per cent.

By Decision No. 2178, dated February 27, 1915 (Volume 6, Opinions and Orders of the Railroad Commission of California, page 226), applicant was authorized to execute a mortgage securing a total issue of $75,000 of 6 per cent bonds maturing in annual installments of $5,000 on the first day of July of each of the years 1917 to 1931, both inclusive. Heretofore applicant has issued $60,000 of bonds, of which $35,000 have been redeemed, leaving $25,000 of bonds now outstanding. Of the $10,000 of bonds it is now desired to issue, $5,000 mature on July 1, 1929, and $5,000 on July 1, 1930.

Applicant reports that since January 1, 1921, it has expended out of income the sum of $14,601 for additions and betterments to its system. These expenditures are reported to consist of—

550 feet 2-inch standard screw	at $0.2745	per foot	$151 00
3504 feet 6-inch redwood pipe	at .546	per foot	1,913 00
2704 feet 8-inch redwood pipe	at .735	per foot	1,987 00
1802 feet 10-inch redwood pipe	at .935	per foot	1,685 00
500 feet 2-inch standard screw	at .21	per foot	105 00
80 feet 10-inch standard screw	at 2.50	per foot	200 00
209 feet 6-inch riveted 14-gauge	at .57	per foot	119 00
2380 feet 6-inch riveted 14-gauge	at .82	per foot	1,952 00
611 feet 8-inch riveted 14-gauge	at .99	per foot	605 00
Total pipe, 12,340 feet			$8,717 00
Cost of installing pipe	at $0.10	per foot	1,234 00
310 service connections with meters	at 15.00		4,650 00
Total new installations			$14,601 00

It is because of these expenditures that applicant asks permission to issue and sell the $10,000 of bonds. W. A. Robertson, applicant's secretary, testified that the money obtained from the sale of the bonds would be used to reimburse the treasury and thereafter expended for further additions and betterments.

Applicant reports that arrangements have been made to sell the $10,000 of bonds at 90 per cent of their face value and accrued interest.

ORDER.

South Los Angeles Land and Water Company, having applied to the Railroad Commission for permission to issue and sell $10,000 of bonds, a public hearing having been held, and it appearing to the Railroad

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Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that South Los Angeles Land and Water Company be and it is hereby authorized to issue and sell, on or before December 31, 1921, at not less than 90 per cent of their face value, plus accrued interest, $10,000 of bonds, and to use the proceeds for the purpose of financing, in part, the cost of the additions and betterments described in this application.

The authority herein granted is subject to the following conditions:

(1) Applicant shall keep such record of the issue and sale of the bonds herein authorized, and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(2) The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

Dated at San Francisco, California, this fourteenth day of October, 1921.

DECISION NO. 9607.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY, AN ELECTRICAL CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF FIVE HUNDRED EIGHTY THOUSAND SIX HUNDRED NINETY-EIGHT DOLLARS AND THIRTY-TWO CENTS PAR VALUE, FIRST AND REFUNDING MORTGAGE SERIES "B" GOLD BONDS, THE SAME BEING ADDITIONAL TO THE ISSUE OF SIX MILLION TWO HUNDRED FORTY-EIGHT THOUSAND TWO HUNDRED SEVENTY-SEVEN DOLLARS AND FIFTY-FIVE CENTS PAR VALUE OF BONDS HERETOFORE AUTHORIZED BY THE RAILROAD COMMISSION OF CALIFORNIA.

Application No. 7217.

Decided October 14, 1921.

The Southern Sierras Power Company is authorized to issue and sell, at not less than 85 per cent of face value and accrued interest, $580,698.32 of first and refunding mortgage Series "B" gold bonds; provided, that should the company realize less than it has expended in acquiring and constructing the Mono Power Company, in process of condemnation by the city of Los Angeles, the loss shall be properly

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recorded and the amount of bonds outstanding reduced proportionately, or surplus earnings equal to the loss shall be invested in the properties and no securities issued on account of such investment.

Chas. F. Potter and *Henry W. Coil*, by *Chas. F. Potter*, for Applicant.

BRUNDIGE, *Commissioner.*

OPINION.

The Southern Sierras Power Company asks permission to issue and sell at not less than 85 per cent of their face value and accrued interest $580,698.32 of first and refunding mortgage 6 per cent Series "B" gold bonds, due January 1, 1965, for the purpose of financing, in part, the cost of extensions, additions and betterments to its properties.

Applicant reports that from September 1, 1920, to April 30, 1921, it has expended for capital purposes the sum of $683,174.49, including $256,822.80 expended on its Owens River Gorge project. The expenditures, which are described in detail in Exhibit "C" attached to the petition, are reported to have been made from income and from advances made to the company.

The $580,698.32 of bonds which applicant asks permission to issue represents 85 per cent of the $683,174.49.

P. R. Ferguson, applicant's auditor, testified that arrangements had been made to sell the bonds at 85, and that the proceeds would be used by applicant to pay, in part, advances made to it by Nevada California Electric Corporation, which amounts to $830,094.32.

The record in Application No. 6283 shows that the city of Los Angeles instituted a proceeding to acquire by condemnation certain properties formerly owned by Mono Power Company and now owned by applicant. The record in this proceeding shows that on July 12, 1921, the United States District Court for the Northern District of California made and entered its judgment by which it was ordered, adjudged and decreed that certain of the properties, consisting of all the riparian rights in the Owens River, part and parcel of the east half of section 16, township 5 south, range 31 east, together with a right of way for a tunnel through said land, be condemned to the use of the city of Los Angeles and the board of public service commissioners of Los Angeles upon the payment to the Southern Sierras Power Company of the sum of $525,000 and costs. It further appears that the bill of exceptions has been signed by the judge of the court, certified to and sealed by the clerk thereof, and will constitute a part of the record to be transmitted to the United States Circuit Court of Appeals for the Ninth Circuit under a writ of error, which has been applied for by applicant and issued.

The properties involved in this condemnation suit constitute a relatively small portion of the entire properties of applicant. Should the

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courts finally decide in favor of the city and the company realize less than it has expended to acquire and construct the properties, the loss must be properly recorded and the amount of bonds outstanding reduced proportionately, or surplus earnings equal to the loss invested in the properties and no securities issued on account of such investment.

I herewith submit the following form of order:

ORDER.

The Southern Sierras Power Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that The Southern Sierras Power Company be and it is hereby authorized to issue and sell at not less than 85 per cent of their face value, plus accrued interest, $580,698.32 of its first and refunding mortgage 6 per cent Series "B" bonds and to use the proceeds to finance, in part, the cost of the extensions, additions and betterments described in Exhibit "C" attached to the petition herein.

The authority herein granted is subject to further conditions, as follows:

(1) Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(2) The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $581.

(3) The authority herein granted shall apply only to such bonds as may be issued on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of October, 1921.

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DECISION No. 9608.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE FOUR MILLION EIGHT HUNDRED FIFTY-THREE THOUSAND DOLLARS FACE VALUE OF ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS AND TO DEPOSIT AND PLEDGE SAID BONDS WITH THE MERCANTILE TRUST COMPANY (SAN FRANCISCO) UNDER AND IN ACCORDANCE WITH THE PROVISIONS OF APPLICANT'S FIRST AND REFUNDING MORTGAGE DATED DECEMBER 1, 1920.

Application No. 7184.

Decided October 14, 1921.

W. B. Bosley and *C. P. Cutten*, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Pacific Gas and Electric Company asks permission to issue and deposit with the Mercantile Trust Company (San Francisco), trustee, under its first and refunding mortgage, $4,853,000 face value of its general and refunding mortgage 5 per cent gold bonds, due January 1, 1942.

Under the authority granted by the Commission in Decision No. 8724, dated March 10, 1921 (Application No. 6387), applicant executed a first and refunding mortgage. In this mortgage it agreed that it will not issue and sell any additional bonds which it may have certified under its general and refunding mortgage, but that all of such bonds will be deposited after certification with the trustee under the first and refunding mortgage.

In Exhibit "B" applicant reports the net cost of additions and betterments to its properties, against which general and refunding bonds may be issued up to June 30, 1921, at $4,108,283.34. Under the general and refunding mortgage it may issue bonds equal in face value to 90 per cent of the net cost of additions and betterments. Ninety per cent of the $4,108,283.34 amounts to $3,697,454.70. It appears that heretofore applicant has called upon the trustee to certify bonds in the amount of $1,156,073.22, which, added to the $3,697,454.70, makes a total of $4,853,527.92.

A. F. Hockenbeamer, second vice president and treasurer of Pacific Gas and Electric Company, testified that thus far no general and refunding bonds have been deposited with the trustee under the first and refunding mortgage and that any bonds so deposited will be held by said trustee until the general and refunding mortgage is canceled and discharged of record. At that time the bonds will be canceled. It

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appears, therefore, that none of the bonds covered by this application will be sold to the public.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue and deposit $4,853,000 of bonds, a public hearing having been held, and the Commission being of the opinion that this application should be granted and that the issue and deposit of the bonds is in accordance with the terms and provisions of section 52 of the Public Utilities Act;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue and deposit with the Mercantile Trust Company (San Francisco), trustee, under its first and refunding mortgage $4,853,000 face value of its general and refunding mortgage 5 per cent gold bonds due January 1, 1942, for the purpose of securing in part the payment of bonds issued and sold under said first and refunding mortgage, such general and refunding mortgage bonds to be deposited under and pursuant to the provisions of the first and refunding mortgage dated December 1, 1920.

The authority herein granted is subject to further conditions, as follows:

1. Pacific Gas and Electric Company shall file with the Railroad Commission a report or reports as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will apply only to such bonds as may be issued and deposited on or before December 15, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of October, 1921.

DECISION NO. 9609.

IN THE MATTER OF THE APPLICATION OF PUENTE PACKING COMPANY, A CORPORATION, FOR AN ORDER PERMITTING IT TO SELL ITS CAPITAL STOCK AND ISSUE CERTIFICATES OF STOCK TO THE BUYERS THEREOF.

Application No. 7087.

Decided October 14, 1921.

Thomas C. Ridgeway, by *Jesse A. Gyger*, for Applicant.

BY THE COMMISSION.

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OPINION.

Puente Packing Company asks permission to issue and sell at par $50,000 of its common capital stock and to acquire certain properties subject to an indebtedness of $22,920.

Puente Packing Company was organized in May, 1921, with an authorized stock issue of $50,000, divided into 500 shares of the par value of $100 each. From the testimony in this proceeding, taken before Examiner Williams, it appears that applicant will engage in the business of packing citrus fruits, bean cleaning and warehousing. The record shows that approximately 25 per cent of its business during the current year may be of a public utility character and the remaining 75 per cent nonpublic utility. It further appears that applicant's public utility business may become of less importance in the course of time for the reason that acreage now devoted to the growing of beans is being planted to citrus fruits.

Applicant has made arrangements to purchase two parcels of real estate and other properties, described in Exhibit "A" filed in this proceeding. The properties are described as follows:

REAL ESTATE.

PARCEL 1. All of block eighteen (18), except the east 175 feet thereof, in the town of Puente, as per map thereof recorded in the office of the county recorder of Los Angeles County, in book 7, pages 86 and 87, miscellaneous records of said county, known as the bean-cleaning and storage warehouse; and

PARCEL 2. All right, title and interest in the east 175 feet of block eighteen (18), in the town of Puente, as per map thereof recorded in the office of the county recorder of Los Angeles County, in book 7, pages 86 and 87, miscellaneous records of said county, known as the citrus packing plant, as evidenced by agreement of purchase between La Puente Valley Walnut Growers Association, as vendor, and Puente Mercantile Company, as vendee.

PERSONAL PROPERTY.

That certain personal property, in connection with the bean-cleaning and storage warehouse, consisting of bean-cleaner, bean picker, stacker, and other machinery, and the furniture and fixtures located in said warehouse, together with any accounts receivable covering storage charges that are a lien upon any personal property now or that may hereafter be placed in storage in said warehouse;

That certain personal property, in connection with the citrus packing plant, consisting of the machinery and equipment, furniture and fixtures, shook, paper, labels, picking boxes, packing boxes, and other stock on hand, including nails, wires, etc., used in connection with said business and located in the said citrus packing plant, together with certain accounts receivable due from growers, amounting to $1,535.69, and also all moneys due from the Mutual Orange Distributors for distribution among the owners of said fruit, less packing and other charges thereon, which charges shall go to this corporation.

G. M. C. auto truck, 1919 Model "F," No. 90409; and Buick touring car, 1918 Model "M," No. 440254, used in connection with the said bean-cleaning and storage warehouse, and citrus packing plant;

Office furniture and fixtures, formerly belonging to Puente Mercantile Company, and now located in the building of the Puente Development Company, at Puente, California.

Applicant has agreed to pay $22,500 for the equity in the above described properties. The properties are subject to an indebtedness of $22,920, $15,000 of which is payable in installments exending over the

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period ending June 1, 1930, and $7,920 in installments extending over the period ending December 31, 1929. The payment of this indebtedness applicant asks permission to assume.

Applicant asks authority to sell all of its authorized stock of $50,000 at not less than par. It appears from the record that it immediately intends to sell $24,000 of the stock and use $22,500 of the proceeds to pay for the equities in the properties which it now proposes to acquire. The remaining $1,500 obtained from the sale of the $24,000 of stock it will use for working capital. Applicant has not submitted any definite information as to the purposes for which it will use the proceeds obtained from the sale of $26,000 of stock. The order herein will permit of the sale of this stock subject to the condition that none of the proceeds be expended except as hereafter authorized by the Railroad Commission.

It appears from the testimony that applicant will engage in both public and nonpublic utility business. It will be required, therefore, to file with the Commission a stipulation duly authorized by its board of directors, in which it, its successors and assigns agree not to ask the Railroad Commission, or other public body having jurisdiction, to include in a rate base such an amount of the proceeds obtained from the sale of the stock as may be expended for nonpublic utility purposes.

ORDER.

Puente Packing Company having applied to the Railroad Commission for permission to issue stock and assume indebtedness, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required by applicant.

It is hereby ordered, that Puente Packing Company be and it is hereby authorized to issue and sell at not less than par $50,000 of its common capital stock and to assume the payment of the indebtedness payable to the Mutual Building and Loan Association of Pomona under a deed of trust dated June 1, 1919, and under an agreement between La Puente Valley Walnut Growers Association and Puente Mercantile Company dated June 1, 1920.

The authority herein granted is subject to further conditions, as follows:

1. Of the proceeds obtained from the sale of stock, $22,500 may be used to pay for the equities in the properties which applicant intends to acquire and which are described in this application. Proceeds in the amount of $1,500 may be used by applicant for working capital. The remainder of the proceeds obtained from the sale of the stock shall not be expended except for such purposes as the Railroad Commission may authorize by supplemental order or orders.

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2. The authority herein granted will not become effective until Puente Packing Company has filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that Puente Packing Company, its successors and assigns, will never urge the Railroad Commission or other public body having jurisdiction to include in a rate base such an amount of the proceeds obtained from the sale of the stock herein authorized as may be expended for the acquisition of nonpublic utility properties, and a supplemental order made reciting that such stipulation satisfactory in form has been filed with the Commission.

3. Puente Packing Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which minimum fee is $25.

5. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before April 1, 1922.

Dated at San Francisco, California, this fourteenth day of October, 1921.

DECISION No. 9611.

IN THE MATTER OF H. F. DEVENNEY FOR PERMISSION TO INCREASE WATER RATES.

Application No. 6738.

Decided October 14, 1921.

WATER UTILITY—ARBITRARY INCREASE—REFUND ORDERED.—Applicant having arbitrarily increased rates without authorization from the Commission, he is ordered to make a refund to consumers of the excess charge.

H. E. Schmidt for Applicant.

BY THE COMMISSION.

OPINION.

The application in the above entitled proceeding alleges that the present rate for water supplied to consumers is entirely inadequate, taking into consideration the investment and operating expense in connection therewith. The Commission is therefore asked to establish a rate of $2 per month for each family occupying a 50-foot lot.

A public hearing was held in Wasco before Examiner Westover, at which all interested parties were given an opportunity to appear and be heard.

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H. F. Devenney is engaged in the business of supplying water for domestic purposes to some thirty-eight consumers residing in a section of the town of Wasco, Kern County. The present rates as charged by applicant are $2 per month for each family occupying a 50-foot lot, and $2 for each 50-foot lot irrigated for lawn or garden purposes. This rate was arbitrarily increased April 1, 1921, by the defendant without authority from the Commission, from the former rate of $1.50 per month.

The water supply is obtained by pumping from a well located in the rear of applicant's residence. Water is stored in a 5000-gallon galvanized tank located in a tankhouse at an elevation of twenty-five feet above ground and distributed through approximately 3800 feet of 2-inch galvanized iron pipe.

The applicant claimed that the plant cost approximately $3,700 and that the operation expenses for the year 1920 amounted to $993, the revenues for the same period amounting to $684.

Mr. M. R. MacKall, of the Commission's hydraulic division, submitted a report and an appraisal of this plant, based upon available records of installation, in which the estimated original cost of the system was shown as $2,372, the replacement annuity, calculated by the sinking fund method, as $37, and recommending a reasonable annual allowance of $627 for maintenance and operation expenses.

The valuation placed upon the system by the applicant was not based upon actual records of cost of installation nor upon an inventory. The operation expenses for 1920 as submitted by applicant included the cost of digging a well pit and the installation of new pumping equipment, both of which should be charged to invested capital. A careful consideration of the evidence leads to the conclusion that the estimates of the Commission's engineer are fair and reasonable and they are used herein.

The total annual charges based upon the foregoing figures are $854, and the revenues for the year 1920 amounted to $684. It is therefore evident that the applicant is entitled to an increase in revenue, and the rate schedule established in the accompanying order is designed to produce a fair return to the utility and at the same time be a fair rate to the consumers for the service rendered.

ORDER.

H. F. Devenney having made application as above, a public hearing having been held, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by H. F. Devenney for water supplied to his consumers are unjust and unreasonable in so far as they differ from the rates herein established, and

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that the rates herein established are just and reasonable rates for such service.

And basing its order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that H. F. Devenney be and he is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order the following rates for water delivered to his consumers in Wasco, effective as to all service rendered on and after November 1, 1921:

Monthly flat rates.

For residences, per month	$1 70
For each additional 50-foot lot actually irrigated, per month irrigated	1 70

It is hereby further ordered, that H. F. Devenney be and he is hereby ordered to refund to each consumer the excess collected for water service over the former rate of $1.50 per month up to the effective date of this order, namely, November 1, 1921.

It is hereby further ordered, that H. F. Devenney file with the Railroad Commission within thirty (30) days from the date of this order rules and regulations governing service to his consumers, said rules and regulations to be and become effective upon their acceptance for filing by this Commission.

Dated at San Francisco, California, this fourteenth day of October, 1921.

DECISION NO. 9612.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES, A COPARTNERSHIP, AND PICKWICK STAGES, INCORPORATED, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK AND THE SALE OF THE BUSINESS OF THE FORMER TO THE LATTER, AND THE ISSUANCE OF STOCK THEREFOR.

Application No. 6527.

Decided October 14, 1921.

AUTO STAGES—STOCK ISSUE—GOODWILL.—It is held that an item of $25,000 for business goodwill should not be included in physical assets against which stock might be issued. The Commission applied the same rule to auto stages as pertain to gas and electric utilities issues.

OPERATIVE PERMITS—COST OF—STOCK MAY ISSUE AGAINST.—It is held that the actual cost of acquiring permits from local authorities constitutes an asset against which stock may be issued.

Warren E. Libby, for Applicant.

LOVELAND, *Commissioner*.

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OPINION.

Pickwick Stages, a copartnership, asks permission to transfer its operative rights and properties to Pickwick Stages, Incorporated. The latter asks permission to acquire said properties and to issue $100,000 of its common stock.

This application was heard and submitted on March 11, subject to the right of counsel for applicant to file a written outline of the theory on which the application is made. This outline was received by the Commission on September 18. This matter is now ready for decision.

It appears from the record in this proceeding that Pickwick Stages, a copartnership, is engaged in a general stage business for the transportation of passengers and baggage for hire between San Diego and Los Angeles, California, over both the coast and inland routes; from San Diego to Escondido, California; from San Diego to Oceanside, California; from San Diego to Julian and Ramona, California; from San Diego to Descanso, California; from San Diego to El Centro, California, and from El Centro to the cities of Brawley and Calexico, California.

Pickwick Stages, Incorporated, has an authorized stock issue of $100,000. It asks permission to issue $53,500 of its stock in exchange for the properties and business goodwill of Pickwick Stages, a copartnership, which properties are described in Exhibit "B" filed in this proceeding; to issue $6,500 of stock to cover the cost of franchises reported in Exhibit "C" filed in this proceeding, and to issue and sell at not less than par $40,000 of stock for new equipment. In Exhibit "B," the value and cost price of the physical assets of Pickwick Stages, a copartnership, as of January 1, 1921, are reported as follows:

Assets	Valuation	Cost price
Cash on hand and in bank	$3,825 00	$3,825 00
Car No. 10—Cadillac 8	1,000 00	1,500 00
Car No. 11—Cadillac 8	1,500 00	1,500 00
Car No. 17—Cadillac 8	2,000 00	2,100 00
Car No. 18—Cadillac 8	2,000 00	1,800 00
Car No. 20—Cadillac 8	2,000 00	2,100 00
Car No. 21—Cadillac 8	2,000 00	2,000 00
Car No. 50—Cadillac 8	2,100 00	2,100 00
Car No. 22—1920 Reo	3,500 00	3,500 00
Car No. 23—1920 White	4,000 00	4,000 00
Car No. 24—1920 White	4,000 00	4,000 00
Car No. 25—Packard Twin	3,200 00	3,400 00
Stage depots and equipments in Imperial County	1,800 00	1,800 00
Los Angeles stage depot	900 00	900 00
San Diego stage depot	2,400 00	2,400 00
Office fixtures	200 00	350 00
Garage equipment	500 00	600 00
Accounts receivable	2,000 00	2,000 00
Business goodwill	25,000 00	25,000 00
Totals	$63,925 00	$64,875 00

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Included in the value of the physical assets is an item of $25,000 for business goodwill. Counsel for applicant has filed a "Memorandum of Points and Authorities," which in his opinion justifies the inclusion of the $25,000. The memorandum has been considered and I have reached the conclusion that the same principles that govern the Commission in authorizing a gas and electric company to issue stock should govern the issue of stock by a stage company. In my opinion, applicants have not made a sufficient showing to warrant the issue of stock against the so-called business goodwill. Deducting the $25,000 from the $63,925 reported as the value of the physical assets, leaves a balance of $38,925. To acquire the assets described in Exhibit "B" free and clear of all encumbrances, I believe that Pickwick Stages, Incorporated, should be permitted to issue stock in such an amount as at 80 will net $38,925. This calls for the issue of $48,700 par value of stock.

In Exhibit "C" filed in this proceeding, the cost of acquiring various operating permits from local authorities is reported at $6,619.56. These permits were secured prior to the effective date of the present statute. Under the former law, operating permits had to be obtained from every incorporated city and town in or through which it was intended to operate. It is of record that it required nearly eighteen months to secure the necessary permits. I am of the opinion that Pickwick Stages, Incorporated, should be permitted to issue $6,500 of common stock for the purpose of financing the cost of the permits described in Exhibit "C."

Pickwick Stages, Incorporated, asks authority to issue and sell at par $40,000 of its common stock to acquire new equipment. A. L. Hayes, president of Pickwick Stages, Incorporated, and general manager of Pickwick Stages, a copartnership, testified that more efficient service could be given if the company owned more of the equipment used in its operations. At the time of the hearing on this application, applicants operated 34 cars, of which 11 were owned by the copartnership and the remainder were leased. If Pickwick Stages, Incorporated, is permitted to issue stock to acquire new equipment, such stock will be purchased, according to the testimony, by the present copartners doing business under the name of Pickwick Stages, a copartnership, and their associates. It is the intention of the management to purchase White or Pierce-Arrow equipment. I believe that Pickwick Stages, Incorporated, should be permitted to issue and sell stock to acquire additional equipment, but that no proceeds obtained from the sale of the stock should be expended until the Commission is furnished with a detailed statement showing the character of the equipment which the company intends to acquire with an estimated cost thereof.

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I am of the opinion that the transfer of the operative rights of the Pickwick Stages, a copartnership, to the Pickwick Stages, Incorporated, should be authorized, subject to the conditions of this order.

I herewith submit the following form of order:

ORDER.

Application having been made to the Railroad Commission for authority to transfer properties and operative rights and to issue stock, a public hearing having been held, and the matters having been duly submitted and the Commission being fully advised and of the opinion that the transfer herein sought should be authorized and that the money, property or labor to be procured through the issue of stock herein authorized is reasonably required by applicant, Pickwick Stages, Incorporated;

It is hereby ordered, that Pickwick Stages, a copartnership, be and it is hereby permitted to transfer to the Pickwick Stages, Incorporated, the operative rights described in this application, subject, however, to compliance with the following conditions:

1. Pickwick Stages, a copartnership, will be required to immediately cancel all tariffs, rates, classifications and time schedules now on file with the Railroad Commission. Applicant, Pickwick Stages, Incorporated, will be required to immediately file new time schedules, tariffs, rates and classifications, or adopt as its own the tariffs, rates, classifications and time schedules of Pickwick Stages, a copartnership, all tariffs, rates, classifications and time schedules to be the same as those heretofore filed by Pickwick Stages, a copartnership. All cancellations and filing must be made in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

2. The rights and privileges hereby authorized to be transferred may not again be transferred, assigned, leased, hypothecated, sold or operations thereunder discontinued unless the written consent of the Railroad Commission to such transfer, assignment, lease, hypothecation, sale or discontinuance of operation shall have first been secured.

3. No vehicle may be operated by applicant, Pickwick Stages, Incorporated, under the authority contained in this approval of transfer unless such vehicle is owned by said applicant, or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

It is hereby further ordered, that Pickwick Stages, Incorporated, be and it is hereby authorized to issue $100,000 par value of common capital stock. The authority herein granted to issue said stock is subject to the following conditions:

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1. Of the stock herein authorized to be issued, $48,700 may be issued and delivered to the Pickwick Stages, a copartnership, in full payment for the properties described in Exhibit "B."

2. Of the stock herein authorized to be issued, $6,500 may be sold by applicant for not less than par and the proceeds used to finance the acquisition of the operative rights and permits described in Exhibit "C."

3. Of the stock herein authorized to be issued, $44,800 may be sold by applicant, for cash, at not less than par. All proceeds realized from the sale of the $44,800 of stock shall be deposited in a special fund and expended only for such purposes as the Railroad Commission may hereafer authorize by a supplemental order or orders.

4. Pickwick Stages, Incorporated, shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before April 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of October, 1921.

DECISION No. 9613.

IN THE MATTER OF THE APPLICATION OF THE SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF BONDS.

Application No. 7222.

Decided October 14, 1921.

Murray Bourne, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

San Joaquin Light and Power Corporation asks permission to issue and sell $2,000,000 of its unifying and refunding mortgage 7 per cent bonds, and to issue and pledge with the trustee under its unifying and refunding mortgage, $1,422,000 of its Series "C" first and refunding mortgage 6 per cent bonds.

By Decision No. 9015, dated May 26, 1921, the Railroad Commission authorized applicant to execute a mortgage securing a total issue of $150,000,000 of unifying and refunding mortgage bonds. The mortgage, among other things, provides that the uncertified first and refund-

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ing bonds of applicant shall from time to time be certified by the trustee under the first and refunding mortgage and deposited with the trustee under the unifying and refunding mortgage. Heretofore, the Commission, by various orders in Application No. 6572, has authorized the issue and sale of $7,000,000 of unifying and refunding mortgage bonds and the issue and pledge, as partial security thereof, of $5,000,000 of first and refunding mortgage bonds. The company now asks permission to issue an additional $1,422,000 of first and refunding mortgage bonds and to pledge them in accordance with the provisions of the unifying and refunding mortgage. It appears that there remains uncertified at this time $1,463,000 of first and refunding mortgage bonds.

Applicant requests permission to sell the $2,000,000 of unifying and refunding bonds at 95½ per cent of their face value plus accrued interest, and to use the proceeds to reimburse itself, or to provide the cost of constructing additions, extensions, improvements and betterments to its property made since January 1, 1917, which cost has not been reimbursed or paid or provided for out of the proceeds of other securities.

The company reports, in Exhibit "A," that since January 1, 1917, and prior to September 1, 1921, it has expended $2,860,014.81 for capital purposes for which it has not been reimbursed. Detailed statements of these expenditures show that this amount included, among others, expenditures for general transmission and distribution purposes, for the company's 12,500 kilovolt ampere Midway steam plant and for the Kings Canyon and Kern River developments.

As of August 31, 1921, applicant reports outstanding $19,343,600 of stock, consisting of $1,843,600 of prior preferred stock, $6,500,000 of preferred stock and $11,000,000 of common stock. On the same date, its interest-bearing funded debt oustanding in the hands of the public is reported at $25,065,000. In addition, applicant reports accounts payable of $1,056,533.73, notes payable of $3,916,955.11, and sundry accruals of $368,861.81.

Applicant reports its revenues and expenses for the twelve months ending August 31, 1921, as follows:

Earnings:		
Light	$1,479,498 07	
Power	3,543,678 45	
Gas	315,213 63	
Water	25,131 06	
Railway	139,995 61	
Total		$5,503,516 82
Operating expense		1,903,119 66
Net earnings		$3,600,397 16
Miscellaneous earnings		185,822 58
Net income		$3,786,219 74

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Deduct:		
Accrued taxes and insurance	$347,003 79	
Bad debts	11,800 00	
Interest deductions	1,397,258 68	
Bond discount and expense	144,125 70	
Total		1,900,188 17
Net profit		$1,886,031 57
Accrued sinking fund and depreciation		389,653 33
Net surplus		$1,496,378 24

A. E. Peat, applicant's treasurer and comptroller, testified that arrangements had been made for the sale of the $2,000,000 of unifying and refunding mortgage bonds to Cyrus Peirce & Company at 95½ per cent of face value and accrued interest.

I herewith submit the following form of order:

ORDER.

San Joaquin Light and Power Corporation, having applied to the Railroad Commission for permission to issue, sell and pledge bonds, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue, sale and pledge is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to issue and sell, at not less than 95½ per cent of their face value and accrued interest, $2,000,000 of unifying and refunding mortgage 7 per cent bonds, and to use the proceeds to reimburse its treasury for, or to provide the cost of, the expenditures referred to in Exhibit "A" attached to the petition.

It is hereby further ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to issue $1,422,000 of first and refunding mortgage bonds and to pledge them with the trustee under its unifying and refunding mortgage as security in part for the bonds issued under said unifying and refunding mortgage.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue, sale and pledge of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $1,500.

3. The authority herein granted shall apply only to such bonds as may be issued and sold or pledged on or before April 30, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of October, 1921.

DECISION NO. 9620.

IN THE MATTER OF THE APPLICATION OF THE SACRAMENTO NORTHERN RAILROAD, A CORPORATION, SACRAMENTO NORTHERN RAILWAY, A CORPORATION, THE WESTERN PACIFIC RAILROAD COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA: (1) AUTHORIZING SAID SACRAMENTO NORTHERN RAILROAD TO SELL ALL OF ITS PROPERTIES, RIGHTS AND FRANCHISES TO SAID SACRAMENTO NORTHERN RAILWAY; (2) AUTHORIZING SAID SACRAMENTO NORTHERN RAILWAY TO ISSUE IN CONNECTION WITH SAID TRANSACTION NINE HUNDRED NINETY-FIVE THOUSAND DOLLARS PAR VALUE OF ITS CAPITAL STOCK, AND (3) AUTHORIZING THE WESTERN PACIFIC RAILROAD COMPANY TO PURCHASE SAID CAPITAL STOCK OF THE SACRAMENTO NORTHERN RAILWAY, AND THE OUTSTANDING BONDS OF SAID SACRAMENTO NORTHERN RAILROAD, AND TO REIMBURSE ITSELF FOR SUCH EXPENDITURES FROM THE PROCEEDS OF ITS BONDS.

Application No. 7147.

Decided October 18, 1921.

RAILROAD PROPERTY—TO TRANSFER—FRAUD—JURISDICTION.—The Commission reiterates that its jurisdiction does not extend to determination of charges of fraud, holding that such charges must be adjudicated by the courts.

TRANSFER OF PROPERTIES.—The Commission's primary interest in applications for transfer of property is to determine that the price is not excessive and that the transfer is in the interest of the public.

TRANSFER OF RAILROAD—PUBLIC INTEREST.—The transfer of the Sacramento Northern Railroad to the Western Pacific is held in the public interest and is authorized.

Sidney M. Ehrman, for Sacramento Northern Railroad.
Jared Howe and *Lester J. Hinsdale*, for Sacramento Northern Railway and The Western Pacific Railroad Company.
Robert Duncan, for Miles Standish and P. Connolly, Intervenors.

BENEDICT, *Commissioner*.

OPINION.

This application, as amended, involves the sale and transfer of the properties of Sacramento Northern Railroad to Sacramento Northern Railway; the issue of $1,000,000 of common stock by Sacramento Northern Railway; the assumption of the payment of the bonded indebted-

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ness of Sacramento Northern Railroad by Sacramento Northern Railway; the purchase of the stock of Sacramento Northern Railway by The Western Pacific Railroad Company, and the expenditure of proceeds by The Western Pacific Railroad Company obtained from the sale of bonds.

Sacramento Northern Railroad was authorized by Decision No. 5432, dated May 25, 1918, as amended (Volume 15, Opinions and Orders of the Railroad Commission of California, page 747), to issue not exceeding $5,200,000 of stock and $5,500,000 of bonds to acquire the properties formerly owned by Northern Electric Railway Company and its affiliated and subsidiary companies. Under the authority granted by the Commission, Sacramento Northern Railroad issued stock as follows:

Common	$1,883,382 65
Second preferred 6 per cent noncumulative	793,152 19
First preferred 6 per cent noncumulative	1,808,362 31
Total	$4,484,897 15

Of the $5,500,000 face value of bonds authorized to be issued, Sacramento Northern Railroad issued $5,224,373.14, divided into the following four classes:

Class "A" 5 per cent, interest payable from July 1, 1918	$1,908,811 56
Class "B" 5 per cent, interest payable from July 1, 1919	904,269 66
Class "C" 5 per cent, interest payable from July 1, 1922	1,205,645 96
Class "D" 5 per cent, interest payable from July 1, 1927	1,205,645 96

The four classes of bonds are equally secured by the terms of the mortgage under which they were issued and differ from each other only in respect to the dates on which the interest payments become effective.

Under date of July 20, 1921, The Western Pacific Railroad Corporation offered to buy all the bonds and stock of the Sacramento Northern Railroad. This offer was renewed under date of August 25, 1921, by The Western Pacific Railroad Corporation, which has agreed to keep the offer open for ten days after action by the Railroad Commission of California and the Interstate Commerce Commission approving the sale of the properties of the Sacramento Northern Railroad pursuant to the offer of The Western Pacific Railroad Company. The Western Pacific Railroad Corporation has offered to pay $27.50 per share for trust certificates representing first preferred stock of Sacramento Northern Railroad; $15 per share for trust certificates representing second preferred stock of Sacramento Northern Railroad, and $6 per share for trust certificates representing common stock of Sacramento Northern Railroad. The bonds of the Sacramento Northern Railroad (of whatever class) The Western Pacific Railroad Corporation offered

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to acquire by exchanging first mortgage bonds of The Western Pacific Railroad Company issued under its mortgage dated June 26, 1916, on the basis of $80 face value of such bonds for $100 face value of Sacramento Northern Railroad bonds. Charles Elsey, secretary of The Western Pacific Railroad Company, testified that as of the close of business September 24, 1921, The Western Pacific Railroad Corporation had acquired $5,144,279.13 face value of the bonds and $4,348,096.64 par value of the outstanding stock of Sacramento Northern Railroad. As of the date mentioned, The Western Pacific Railroad Corporation had acquired more than 97 per cent of the outstanding stock and more than 98 per cent of the outstanding bonds of Sacramento Northern Railroad. Of the outstanding stock $136,800.51 par value, and of the bonds $80,094.01 face value have not been deposited under the offer made by The Western Pacific Railroad Corporation. The Western Pacific Railroad Company, controlled through stock ownership by The Western Pacific Railroad Corporation, under date of August 9, 1921, offered to purchase all of the properties of Sacramento Northern Railroad at a cost of $730,000 cash and assume the payment of the outstanding bonds of Sacramento Northern Railroad and the performance of all other obligations. The offer provides that the properties shall be transferred to a corporation to be organized by The Western Pacific Railroad Company bearing the name of Sacramento Northern Railway, or other appropriate name selected by The Western Pacific Railroad Company. To consummate this transaction, The Western Pacific Railroad Company has caused to be organized the Sacramento Northern Railway with an authorized stock issue of $1,000,000 and has agreed to purchase all of such stock to enable the Sacramento Northern Railway to purchase the properties of Sacramento Northern Railroad and make improvements. It appears from the testimony that the only reason for organizing the Sacramento Northern Railway is the fact that The Western Pacific Railroad Company can not expend any proceeds from the sale of its first mortgage bonds to improve or extend the properties of a subsidiary company unless it owns all of the outstanding stock of such subsidiary company. Inasmuch as all of the stock of the Sacramento Northern Railroad has not been deposited under the offer made by The Western Pacific Railroad Corporation, The Western Pacific Railroad Company is prevented by the terms of its first mortgage from using any of the proceeds obtained from the sale of its first mortgage bonds to extend or improve the service of the Sacramento Northern Railroad. The service will be improved and extended, according to the testimony of C. M. Levey, president of The Western Pacific Railroad Company, after the Sacramento Northern Railroad properties are transferred to the Sacramento

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Northern Railway, all of whose stock will be owned by The Western Pacific Railroad Company.

Miles Standish and P. Connolly, intervenors, represented by Robert Duncan, protest against the granting of this application on the ground, among others, that the price offered for the properties of Sacramento Northern Railroad is inadequate and that the transfer of the properties will result in actual or implied fraud upon the rights of the intervenors and other stock or bond holders who have not deposited their stock and bonds.

The Commission has on several occasions announced that it did not have sufficient jurisdiction to determine charges of fraud and that such charges must be adjudicated in the courts. The Commission is interested primarily in the transfer of these properties from two points of view: first, that the price being paid is not excessive; and, second, that the transfer is in the interest of the public. In Decision No. 5432, dated May 25, 1918, the Commission referred to findings of its engineering department and of A. S. Kibbe, consulting engineer. In its decision the Commission says:

> The engineering department of the Railroad Commission estimated the reproduction cost of the Northern Electric properties at $10,324,788 and the reproduction cost less depreciation at $9,154,905. A. S. Kibbe, consulting engineer for applicants, estimates the reproduction cost of the properties at approximately $11,000,000 and the reproduction cost less depreciation at approximately $10,000,000. Inasmuch as the amended reorganization plan provides for an issue of $5,200,000 of stock and $5,500,000 of bonds, the capitalization proposed can not be held unreasonable, provided the property can sustain the bond issue.

Charles Elsey estimates the total cost of the securities which The Western Pacific Railroad Company intends to acquire at $4,450,000, an amount which is considerably less than the estimated reproduction cost new less depreciation of the properties. Intervenors urge that the price offered for the properties is inadequate, and therefore the application should be denied. The fact, however, remains that the holders of more than 97 per cent of the stock and the holders of more than 98 per cent of the bonds of Sacramento Northern Railroad consider the price adequate and have deposited their stock and bonds. The Commission can not settle a controversy of the character indicated in this proceeding between stock and bond holders. It might be mentioned, however, that because of the preference given to the holders of the first preferred stock of Sacramento Northern Railroad by the articles of incorporation of that company, the net proceeds realized from the sale of its property in case of liquidation will go to the holders of the first preferred stock.

The record leaves no doubt in my mind that the transfer of the properties of the Sacramento Northern is in the interest of the public. The testimony is conclusive that the Sacramento Northern Railroad

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has not sufficient funds to develop properly its properties and meet the needs of the shipping and traveling public. The Western Pacific Railroad Company, on the other hand, has the funds required to improve the present service and construct extensions to the existing lines. Its equipment will become available to its subsidiary, the Sacramento Northern Railway.

The Western Pacific Railroad Company asks permission to use not exceeding $4,450,000 of the proceeds obtained from the sale of its first mortgage bonds, the issue of which has heretofore been authorized by the Commission, to acquire the stock of Sacramento Northern Railway and the bonds of Sacramento Northern Railroad. This request of the company, I believe, should be granted and the order in Decision No. 3505, dated July 12, 1916, as amended, and the order in Decision No. 8834, dated April 9, 1921, modified accordingly.

I herewith submit the following form of order:

ORDER.

Application having been made for permission to transfer properties, issue stock and acquire properties, as indicated in the opinion which precedes this order, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of stock herein authorized is reasonably required for the purposes specified in this order, and that the expenditures herein permitted are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, as follows:

1. Sacramento Northern Railroad be and it is hereby authorized to sell and transfer for the sum of $730,000 in cash, all of its properties, more particularly described in Schedule "1," attached hereto, to Sacramento Northern Railway, in accordance with the terms of the agreement, a copy of which, marked Exhibit "F," is filed in this proceeding.

2. Sacramento Northern Railway be and it is hereby authorized to purchase the properties of Sacramento Northern Railroad; to issue and sell, for cash, on or before April 1, 1922, at not less than par, $1,000,000 of its common stock; to assume the payment of the outstanding bonds of the Sacramento Northern Railroad and the performance of the covenants and conditions of the mortgage securing the payment of said bonds, and to execute all deeds and assignments necessary to complete the transfer of the properties which it is hereby authorized to acquire.

3. The Western Pacific Railroad Company be and it is hereby authorized to purchase the $1,000,000 of stock of Sacramento Northern Railway.

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4. The order in Decision No. 3505, dated July 12, 1916, as amended, and the order in Decision No. 8834, dated April 9, 1921, be and they are hereby modified so as to permit The Western Pacific Railroad Company to use not exceeding $4,450,000 of the proceeds obtained from the sale of first mortgage bonds, the issue of which is authorized by said decisions, to acquire the stock of the Sacramento Northern Railway and the bonds of the Sacramento Northern Railroad, or reimburse its treasury on account of the moneys expended for the purchase of said stock or bonds.

5. Sacramento Northern Railway be and it is hereby permitted to use not exceeding $730,000 of the proceeds obtained from the sale of its stock to acquire the properties of Sacramento Northern Railroad. The remainder of the proceeds obtained from the sale of its stock, the Sacramento Northern Railway may use as working capital.

6. Sacramento Northern Railway shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The consideration being paid for the properties of Sacramento Northern Railroad shall not be urged before this Commission, or other body having jurisdiction, as a basis of rates, or for any purpose other than the transfer herein permitted.

8. The authority herein granted will apply only to such transfer of properties as may be effected on or before April 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of October, 1921.

SCHEDULE 1.

The properties authorized to be transferred by the order preceding this schedule and the conditions of transfer are as described in Exhibit "F," filed in this proceeding, which reads:

THIS AGREEMENT, made this first day of September, 1921, by and between the Sacramento Northern Railroad, a corporation organized and existing under the laws of the State of California, hereinafter called the "Railroad Company," party of the first part, and the Sacramento Northern Railway, a corporation organized and existing under the laws of the State of California, hereinafter called the "Railway Company," party of the second part,

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WITNESSETH, that in consideration of the mutual covenants and agreements herein set forth, the parties hereto hereby agree each with the other as follows, to wit:

First—Subject to the conditions hereinafter set forth the Railroad Company hereby covenants and agrees to sell and convey to the Railway Company, and the Railway Company agrees to purchase from the Railroad Company for the sum of seven hundred and thirty thousand dollars, all and singular the following described lines of railroad, terminals, lands, equipment, shares of stock, and real and personal property owned by the Railroad Company, to wit:

1. A main line of railroad commencing at and in the town of Hamilton, in the county of Glenn, State of California; running thence in a general southeasterly, easterly and southerly direction through the said county of Glenn and the counties of Butte, Sutter, Yuba and Sacramento to and through the city of Sacramento in said county of Sacramento, and to the west bank of the Sacramento River in the county of Yolo, passing through the city of Chico in said county of Butte, the town of Yuba City in said county of Sutter and the city of Marysville in said county of Yuba, and including a line of railroad leaving the above described line at a station known as Tres Vias in the county of Butte, and running thence in a general easterly direction into the town of Oroville in said county of Butte, said line of railroad being about 107 miles in length.

2. A line of railroad commencing at a station on the above described line known as Heyman, in the county of Sutter; running thence in a general westerly and northwesterly direction through said county of Sutter and the county of Colusa to and through the town of Colusa in said county of Colusa—being about 22 miles in length.

3. A line of railroad commencing at a connection with the railroad described in paragraph 1, above, on the west bank of the Sacramento River in the county of Yolo; running thence in a general northwesterly and westerly direction through said county of Yolo to and through the city of Woodland in said county of Yolo, including a line of railroad on Second street in said city of Woodland—being about 17 miles in length.

4. A branch line of railroad, having its initial point and connection with the railroad described in paragraph 1 above, at a station thereon in the county of Sacramento, known as Globe, and extending thence in a northeasterly direction to a station known as Swanston in said county of Sacramento—being about 1.4 miles in length.

5. A line of railroad commencing at and in the town of Vacaville in the county of Solano; running thence in a general southeasterly direction to a station on the proposed line of railroad hereafter mentioned known as Vacaville Junction; thence in a general southwesterly direction along said proposed line to a station thereon known as Willotta, including a branch line from a point on said line at or near the town of Fairfield; running thence through the town of Fairfield and the town of Suisun City, all in the said county of Solano, having a length of about 15 miles; also all franchises and rights of way for the purpose of constructing, maintaining and operating a proposed line of railroad commencing at a connection with the railroad described in paragraph 1, above, on the west bank of the Sacramento River in the county of Yolo; running thence in a general westerly, southwesterly and southerly direction through the counties of Yolo, Napa and Solano to and through the city of Vallejo in said county of Solano, and passing through said above mentioned stations of Vacaville Junction and Willotta, said proposed line being about 60 miles in length.

6. All local electric street railway lines in and about the city of Chico in the county of Butte, and in the town of Yuba City in the county of Sutter, and the city of Marysville in the county of Yuba, and in the city of Sacramento, county of Sacramento.

7. All franchises, rights and privileges and all terminals and all lands and interests in lands, easements therein and improvements thereon, including, among other things, the rights of way, yards, roadbeds, roadways, tracks, sidetracks, turnouts, sidings, switches, bridges, culverts, embankments, tunnels, depots, freight houses, warehouses, stations, car houses, power houses, transformer houses, buildings, structures, shops, rails, poles, pole lines, cables, wires, fixtures and furniture, docks, wharves, piers, ships, telephone and telegraph lines and other structures and erections and the appurtenances of all and every of the foregoing, whether or not

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for use in connection with said or any lines of railroad, or said or any proposed lines of railroad.

8. All rolling stock, cars, motors, engines, equipment; all machinery, dynamos, tools, implements and appliances; all electrical generating and transmission and other electrical apparatus, and all other equipment, apparatus, appliances and facilities.

9. The estates, interest and rights of the company under any and all leases, leaseholds, rights under leases or contracts, trackage agreements, traffic agreements and operating agreements.

10. The following shares of stock in other corporations:

755 shares of the par value of $100 each of the capital stock of the Northern Realty Company.

350 shares of the par value of $100 each of the West Side Railroad Company.

13,000 shares of the par value of $1 each of the Northern Warehouse Company.

10 shares of the par value of $100 each of the East Nicolaus Warehouse Company.

10 shares of the par value of $100 each of the Cattell Warehouse Company.

11. All those certain parcels of land and other properties, rights and interests described in the following deeds executed by the Northern Realty Company to Sacramento Northern Railroad:

Deed dated November 29, 1920, recorded in the records of Solano County, California, in book 249 of Deeds, page 234;

Deed dated November 29, 1920, recorded in the records of Colusa County, California, in book 98 of Deeds, page 222;

Deed dated November 29, 1920, recorded in the records of Sutter County, California, in book 71 of Deeds, page 297;

Deed dated November 29, 1920, recorded in the records of Yuba County, California, in book 75 of Deeds, page 341;

Deed dated November 29, 1920, recorded in the records of Butte County, California, in book 187 of Deeds, page 431;

Deed dated November 29, 1920, recorded in the records of Sacramento County, California, in book 551 of Deeds, page 189;

Deed dated February 4, 1921, recorded in the records of Sacramento County, California, in book 551 of Deeds, page 387.

Also all other real property or any interest therein belonging to the Railroad Company of every kind and nature whatsoever.

12. Also all bonds, securities, moneys, accounts and bills receivable, claims, and all other property, interests and rights which shall belong to the Railroad Company or to which it may be entitled, at the time of the execution and delivery of the instruments of conveyance and assignment of the properties aforesaid.

The Railroad Company covenants and agrees that upon the making of the orders of the Railroad Commission of California and of the Interstate Commerce Commission, as set forth in paragraph third hereof, it will execute and deliver to the Railway Company such deeds and other instruments of conveyance and assignments as shall be necessary to vest in the Railway Company title to all of the properties aforesaid, subject, however, to the liens, bonds, indebtedness, and obligations referred to in paragraph second hereof.

Second—The properties, rights and franchises are to be sold and conveyed as aforesaid, subject to the lien of a mortgage and deed of trust executed by the Railroad Company to the Mercantile Trust Company of San Francisco, as trustee, dated July 1, 1918, under which bonds to the amount of five million two hundred and twenty-four thousand three hundred and seventy-three dollars and fourteen cents ($5,224,373.14), aggregate par value, are now outstanding, and also to all other lawful obligations, contracts and indebtedness of the Railroad Company existing at the time of such conveyance and transfer.

The Railway Company further agrees that in consideration of the sale of the properties aforesaid it will assume and agree to pay the principal and interest of such bonds as the same shall respectively become due, and will perform each and all of the covenants and conditions of the said mortgage and deed of trust, and in every respect comply with all the terms and conditions imposed by article IX of said mortgage and deed of trust upon any corporation which shall purchase as

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an entirety all of the property of the Railroad Company; also to assume and agree to pay and perform all other lawful obligations, contracts and indebtedness of the Railroad Company existing at the time of the execution and delivery of the aforesaid deeds and instruments of conveyance and assignment, and to hold the Railroad Company harmless from each and all of said bonds, obligations, contracts and indebtedness.

Third—The agreement of the Railroad Company to sell and of the Railway Company to purchase the properties aforesaid is subject to the following conditions:

1. The sale and conveyance of said property, rights and franchises, upon the terms aforesaid, shall be duly authorized by the Railroad Commission of the State of California and by the Interstate Commerce Commission.

2. The issuance of the capital stock of the Railway Company to The Western Pacific Railroad Company, a corporation organized and existing under the laws of the State of California, and the purchase of such stock by said company to an amount sufficient to provide the Railway Company with not less than the sum of seven hundred and thirty thousand dollars, shall be authorized by the Railroad Commission of the State of California and by the Interstate Commerce Commission.

In witness whereof, each of the parties hereto has caused its corporate name to be hereunto subscribed by the hand of its president, or vice president, and its corporate seal to be hereunto affixed and attested by its secretary, the day and year first above written.

SACRAMENTO NORTHERN RAILROAD.
By SIDNEY M. EHRMAN, Vice President.

Attest: C. H. GARDINER, Secretary.

SACRAMENTO NORTHERN RAILWAY
By STEPHEN F. OTIS, President.

Attest: E. C. BATES, Secretary.

State of California, City and County of San Francisco: ss.

On this third day of September, 1921, before me, Alice Spencer, a notary public in and for the said city and county, residing therein, duly commissioned and sworn, personally appeared Sidney M. Ehrman, known to me to be the vice president of the Sacramento Northern Railroad, the corporation that executed the within instrument, and known to me to be the person who executed such instrument on its behalf, and he acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed the official seal of my office in the city and county aforesaid, the day and year in this certificate first above written.

ALICE SPENCER.
Notary Public in and for the city and county of San Francisco, State of California.

(Seal)

State of California, City and County of San Francisco: ss.

On this second day of September, 1921, before me, Flora Hall, a notary public in and for the said city and county, residing therein, duly commissioned and sworn, personally appeared Stephen F. Otis, known to me to be the president of the Sacramento Northern Railway, the corporation that executed the within instrument, and known to me to be the person who executed such instrument, on its behalf, and he acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed the official seal of my office in the city and county aforesaid, the day and year in this certificate first above written.

FLORA HALL.
Notary Public in and for the city and county of San Francisco, State of California.

(Seal)

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DECISION NO. 9622.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER ITS FIRST PREFERRED STOCK TO THE PAR VALUE OF TWO MILLION DOLLARS, AND TO USE THE PROCEEDS FROM THE SALE OF SAID FIRST PREFERRED STOCK IN THE MANNER AND FOR THE PURPOSES SET FORTH HEREIN.

Application No. 7234.
Decided October 21, 1921.

C. P. Cutten, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

Pacific Gas and Electric Company, in this proceeding, asks permission to issue and sell at not less than $80 per share 20,000 shares ($2,000,000) of its 6 per cent cumulative first preferred stock and use the proceeds to pay in part actual or estimated construction expenditures reported in exhibits filed in this proceeding.

Pacific Gas and Electric Company has an authorized stock issue of $160,000,000, divided into $50,000,000 of first preferred, $10,000,000 of original preferred and $100,000,000 of common.

In its Exhibit "A" applicant, as of August 31, 1921, reports stock outstanding as follows:

First preferred		$37,452,005 00
Original preferred		55,800 00
Common:		
In hands of public	$34,004,058 00	
Owned by subsidiary companies	31,696,866 66	
Total common		65,700,924 66
Total stock		$103,208,729 66
Less common stock owned by subsidiary companies		31,696,866 66
Total stock in hands of public		$71,511,863 00

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In Exhibit "2" applicant reports its unreimbursed capital expenditures as of August 31, 1921, at $1,500,474.88. Exhibit "2" shows the following:

Unreimbursed capital expenditures of the Pacific Gas and Electric Company as of November 30, 1920, as per Exhibit "B" of Application No. 6585		$1,136,709 96
Total construction expenditures of the Pacific Gas and Electric Company November 30, 1920, to August 31, 1921, as reported in monthly statements to Railroad Commission		5,268,464 88
Total construction expenditures of the Mount Shasta Power Corporation from April 30, 1917, to and including August 31, 1921		10,317,347 74
Total		$16,722,522 58
Total cash received since November 30, 1920, from sale of securities and amount of unpaid stock subscriptions and proceeds to be received from sale of unsold stock as of August 31, 1921, reported in Exhibit "1," in Application No. 7234		15,222,047 70
Unreimbursed capital expenditures as of August 31, 1921		$1,500,474 88

In Exhibit "3" applicant reports its authorized estimated construction expenditures on its own system subsequent to August 31, 1921, at $1,433,648.95. The authorized estimated construction expenditures subsequent to August 31, 1921, on the properties of the Mount Shasta Power Corporation, all of whose outstanding stock is owned by applicant, are reported in Exhibit "4" at $11,539,312.77. The total of the unreimbursed construction expenditures and of the authorized estimated construction expenditures subsequent to August 31, 1921, reported in Exhibits 2, 3 and 4 aggregates $14,473,436.60.

It is not necessary for the Commission in this proceeding to approve all of the $14,473,436.60 of actual or estimated construction expenditures. Applicant asks authority to issue but $2,000,000 of stock. Only expenditures properly chargeable to capital account under the classification of accounts adopted or prescribed by this Commission may be financed through the issue of $2,000,000 of stock.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for authority to issue 20,000 shares ($2,000,000) of its first preferred stock, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified in this order, and that the expenditures herein permitted are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue, sell and deliver for cash at not less

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than $80 per share on or before April 1, 1922, 20,000 shares ($2,000,000) of its 6 per cent first preferred stock and use the proceeds to finance in part the actual or estimated construction expenditures reported in its Exhibits 2, 3 and 4 filed in this proceeding, provided that the expenditures are properly chargeable to capital account under the classification of accounts prescribed or adopted by this Commission, and provided further that Pacific Gas and Electric Company will keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of October, 1921.

DECISION NO. 9626.

HOMER RHYNE AND C. L. RHYNE, DOING BUSINESS AS A COPARTNERSHIP UNDER THE NAME OF RHYNE AND RHYNE,

vs.

W. D. GREER, DOING BUSINESS UNDER THE NAME OF W. D. GREER STAGE COMPANY.

Case No. 1642.

Decided October 21, 1921.

BY THE COMMISSION.

SUPPLEMENTAL OPINION.

On July 25, 1921, complainants in the above entitled proceeding filed a complaint in which they attack the operating rights of the W. D. Greer Stage Company as regards operating to or from the town of Fellows in connection with their through stages operated from Taft to San Luis Obispo and Pismo Beach, via McKittrick.

A hearing was held upon such complaint on August 18, 1921, before Examiner Satterwhite at Bakersfield and on August 31, 1921, the Commission issued its Decision No. 9442, in which such complaint was dismissed. On September 19, 1921, complainants filed a petition for rehearing in which they allege that the Commission erred in dismissing such complaint in so far as it related to the right of defendant therein to carry passengers locally between Taft and Fellows, such petition for rehearing alleging that the evidence conclusively showed that neither

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defendant nor his predecessor in interest, Western Auto Stage Company, a corporation, had ever held themselves out as carrying passengers locally between Taft and Fellows in connection with their through stage service, Taft to San Luis Obispo and Pismo Beach.

The evidence in this proceeding was extremely contradictory as to whether or not either the W. D. Greer Stage Company or the Western Auto Stage Company, a corporation, had ever held themselves out as receiving or discharging passengers at Fellows in connection with through trips to and from San Luis Obispo and Pismo Beach. We have again carefully reviewed the evidence submitted in this proceeding and are now of the opinion that the Western Auto Stage Company, a corporation, had never held themselves out as carrying passengers locally between Taft and Fellows.

The operative right at present owned by W. D. Greer, doing business under the name of the W. D. Greer Stage Company, between Taft and San Luis Obispo and Pismo Beach, via McKittrick, was originally obtained by the Western Auto Stage Company, a corporation, through operation in good faith prior to May 1, 1917. This operative right the Western Auto Stage Company, a corporation, was authorized to transfer to the W. D. Greer Stage Company under Decision No. 7511, and accordingly the right at this time held by W. D. Greer is only such right as was originally obtained by the Western Auto Stage Company, a corporation, through its operation prior to May 1, 1917.

Under Decision No. 9065, in Case No. 1442, *A. B. Watson* vs. *White Bus Line,* the Railroad Commission held:

> Strictly speaking, a transportation company operating a through service in good faith on and prior to May 1, 1917, has no right by reason of such operation to later initiate a local service between intermediate points on the route traversed in the through service without first obtaining a certificate of public convenience and necessity therefor from the Railroad Commission. The company would have the right to put on the local service to the same extent only as was its duty to render it, and this, in turn, would be only to the extent that the company had, on and prior to May 1, 1917, held itself out to render such local service for the public.

The evidence in this proceeding fails to show that the Western Auto Stage Company, a corporation, precedessor in interest to the W. D. Greer Stage Company, actually operated a local service between Taft and Fellows or Fellows and Taft and intermediate points, but in fact showed that such corporation had consistently refused to accept passengers for transportation between such points and that such method of operation was continued by the corporation during all of the time that it operated automobile stage service between Taft, San Luis Obispo and Pismo Beach, and as no certificate of public convenience and necessity has been issued by the Railroad Commission authorizing

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the operation of local service between Taft and Fellows by W. D. Greer Stage Company, the only operative right which such company holds is such right as it obtained through purchase from the Western Auto Stage Company, a corporation, which right, as hereinabove stated, did not include the right to do business locally between Taft and Fellows, although it did include the right to enter the town of Fellows for the purpose of picking up or discharging passengers destined to or from San Luis Obispo or Pismo Beach. We are, accordingly, of the opinion that the order of dismissal heretofore entered in the above entitled proceeding should be set aside and Decision No. 9442 modified in accordance with the findings as above outlined.

SUPPLEMENTAL ORDER.

A petition for rehearing having been filed by complainants in the above entitled proceeding, and the Commission being fully advised:

It is hereby found as a fact that W. D. Greer, doing business under the fictitious name of W. D. Greer Stage Company, has no operative right authorizing him to accept or transport for compensation passengers destined from Taft to Fellows or Fellows to Taft or points intermediate thereto.

Basing its order on the foregoing finding of fact and the findings of fact as contained in the foregoing opinion;

It is hereby ordered, that Decision No. 9442 in so far as it relates to Case No. 1642 be and the same hereby is vacated and set aside; and,

It is hereby further ordered, that W. D. Greer, doing business under the fictitious name of W. D. Greer Stage Company, be and he is hereby directed to immediately discontinue the transportation of passengers locally from Taft to Fellows or Fellows to Taft or points intermediate thereto and he shall immediately cancel tariff of rates on file with this Commission in so far as such tariff shows rates applying between such points.

It is hereby further ordered, that in all other respects the above entitled complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this twenty-first day of October, 1921.

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DECISION NO. 9629.

IN THE MATTER OF THE APPLICATION OF R. B. YOUNG, DOING BUSINESS AS THE GRIZZLY ELECTRIC COMPANY, FOR PERMISSION TO ISSUE A NOTE AND SECURE THE SAME BY MORTGAGE ON ALL PROPERTY OF THE GRIZZLY ELECTRIC COMPANY OF PORTOLA, PLUMAS COUNTY, CALIFORNIA.

Application No. 7199.

Decided October 21, 1921.

BENEDICT, *Commissioner.*

OPINION.

R. B. Young, doing business under the name of Grizzly Electric Company, asks permission to issue a $2,000 one-year note bearing interest at not exceeding 8 per cent per annum; to use the moneys obtained through the issue of the note to refund indebtedness and purchase and install a new generator, and to execute a mortgage to secure the payment of the note.

R. B. Young is engaged in the generation and distribution of electrical energy at Portola, Plumas County. In Decision No. 3952, dated December 26, 1916 (Volume 12, Opinions and Orders of the Railroad Commission of California, page 111), it appears that the gas and electric division of the Commission's engineering department found the historical reproduction cost new of the electrical properties of R. B. Young to be $6,000. He now reports the investment in the properties at about $10,000. His indebtedness is reported at $1,000. Approximately 120 consumers are being served by the electrical system owned and operated by R. B. Young.

By Decision No. 5186, dated March 7, 1918 (Volume 15, Opinions and Orders of the Railroad Commission of California, page 327), the Commission authorized R. B. Young to execute a deed of trust to secure the payment of a $2,000 ninety-day note. On this note there is still due the sum of $1,000. To refund this indebtedness and to secure additional funds to acquire and install a new generator, applicant asks permission to borrow $2,000. Arrangements appear to have been made by R. B. Young to secure the $2,000 from the Plumas County Bank. The payment of the loan is to be secured by a deed of trust covering all of his electrical properties. The deed of trust will be in form similar to the deed of trust executed pursuant to the authority granted in Decision No. 5186.

I herewith submit the following form of order:

ORDER.

R. B. Young, doing business under the name of Grizzly Electric Company, having applied to the Railroad Commission for permission

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to issue a $2,000 note and execute a deed of trust, a public hearing having been held and the Commission being of the opinion that this application should be granted;

It is hereby ordered, that R. B. Young, doing business under the name of Grizzly Electric Company, be and he is hereby authorized to issue at par a $2,000 one-year note bearing interest at a rate of not exceeding 8 per cent per annum, and to secure the payment of such note by the execution of a deed of trust substantially in the same form as the deed of trust authorized by Decision No. 5186, provided that the approval herein given of said deed of trust is for the purpose of this proceeding only and an approval in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval as to such other legal requirements to which said deed of trust may be subject.

The authority herein granted is subject to further conditions, as follows:

1. Applicant may issue the note herein authorized for a term of less than one year. If the note is issued for a term of less than one year, applicant may renew the same from time to time, provided that the term of the original note and the terms of the notes issued in renewal thereof do not exceed a period of one year.

2. The moneys realized through the issue of the note herein authorized shall be used by applicant to refund the indebtedness referred to in this application and to pay in part the cost of acquiring and installing the generator referred to in this application.

3. R. B. Young, doing business under the name of Grizzly Electric Company, shall keep such record of the issue and sale of the note herein authorized and of the disposition of the proceeds as will enable him to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

5. Applicant shall file within thirty days after its execution a copy of the deed of trust executed to secure the payment of the note herein authorized.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of October, 1921.

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DECISION NO. 9630.

IN THE MATTER OF THE APPLICATION OF R. A. ROSE, OPERATING UNDER THE NAME OF FAIROAKS ELECTRIC COMPANY, FAIROAKS, CALIFORNIA, FOR AN ORDER AUTHORIZING THE ISSUE OF PROMISSORY NOTES.

Application No. 7182.
Decided October 21, 1921.

R. A. Rose, in propria persona.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing, R. A. Rose, operating a public utility business under the name of Fairoaks Electric Company, asks permission to execute a mortgage or deed of trust and to issue a note or notes for $10,000, bearing interest at not more than 7 per cent per annum, and maturing on or before ten years after date of issue.

A public hearing was held before Examiner Satterwhite in Sacramento on October 17, 1921.

R. A. Rose owns and operates an electric distributing system in and about Fairoaks townsite, Sacramento County, California.

For the years ending December 31, 1919, and December 31, 1920, and the eight months ending August 31, 1921, he reports his electric revenues and expenses as follows:

	Revenues	Expenses	Net revenue
1919	$3,017 37	$2,800 30	$217 07
1920	4,567 43	3,846 04	721 39
1921 (eight months)	3,542 57	2,667 57	875 00

While R. A. Rose requests permission to issue a note or notes in the aggregate face value of $10,000, he proposes to issue forthwith a note or notes only in the sum of $7,000. The $7,000 secured through the issue of such note or notes will be used to refund indebtedness and install meters. R. A. Rose reports that he has incurred against his utility properties, indebtedness in the amount of $6,580, consisting of miscellaneous accounts payable aggregating $830, and of two notes—one for $5,000 and one for $750. The issue of the $5,000 note was authorized by the Commission in Decision No. 5349, dated April 29, 1918 (Volume 15, Opinions and Orders of the Railroad Commission of California, page 626).

R. A. Rose testified that the $6,580 of indebtedness which he asks permission to refund represents money invested in additions and betterments to his public utility properties. If he issues a $7,000 note or

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notes and refunds the indebtedness of which mention has been made, he will have available to cover the cost of installing meters the sum of $420.

R. A. Rose has not furnished the Commission with any detailed information showing the purposes for which the $3,000 which he intends to secure through the issue of a note or notes, will be expended. The order will provide that the moneys secured through the issue of such note or notes may be used only for purposes indicated by the Commission in a supplemental order or orders.

R. A. Rose has not yet filed with the Commission a copy of his proposed mortgage or deed of trust securing the payment of the $10,000 note or notes.

The authority herein granted will not become effective until applicant has filed with the Commission a copy of his proposed mortgage or deed of trust and the Railroad Commission, by supplemental order, has authorized its execution.

ORDER.

R. A. Rose, doing business under the name of the Fairoaks Electric Company, having applied to the Railroad Commission for permission to issue a note or notes and to execute a mortgage or deed of trust, a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that R. A. Rose be and he is hereby authorized to issue at not less than face value, his promissory note or notes in the principal amount of $10,000, payable on or before ten years after the date of this decision.

The authority herein granted is subject to further conditions, as follows:

(1) If R. A. Rose issues a note or notes for a term of less than ten years after the date of this decision, he may renew such notes or notes from time to time, provided that the term of the original note or notes and the terms of all renewals thereof do not exceed a period of ten years from the date of this decision.

(2) The note or notes herein authorized shall bear interest at the rate of not exceeding 7 per cent per annum.

(3) The authority herein granted will not become effective until R. A. Rose has filed with the Railroad Commission a copy of his proposed mortgage or deed of trust and the Railroad Commission has, by supplemental order, authorized its execution.

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(4) R. A. Rose may use $7,000 obtained through the issue of the note or notes herein authorized to refund the indebtedness and pay the cost of the additions and betterments to which reference is made in the opinion which precedes this order.

(5) The remaining $3,000 which R. A. Rose may obtain through the issue of the note or notes herein authorized shall be expended only for such purposes as the Railroad Commission may permit by supplemental order or orders.

(6) Applicant shall keep such record of the issue of the note or notes herein authorized and of the disposition of the proceeds as will enable him to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(7) The authority herein granted shall not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

Dated at San Francisco, California, this twenty-first day of October, 1921.

DECISION NO. 9632.

IN THE MATTER OF THE APPLICATION OF JOHN A. McGOVERN FOR AUTHORITY TO INCREASE RATES.

Application No. 6748.

IN THE MATTER OF THE APPLICATION OF JOHN A. McGOVERN FOR DISCONTINUANCE OF WATER SERVICE AT WASCO, CALIFORNIA.

Application No. 6945.

Decided October 21, 1921.

WATER UTILITY—TO DISCONTINUE SERVICE.—It being shown that present consumers can not be supplied from any other source, applicant denied the right to discontinue service. Just and reasonable rates established.

Irwin and Laird, by *Rollin Laird*, for Applicant.

BY THE COMMISSION.

OPINION.

The above applications relate to a small water system serving five consumers in Wasco, Kern County. Authority is sought in Application No. 6748 to increase present rates, which range from $1 to $2.50 per month, to rates ranging from $16 to $40 per month. By Application No. 6945 authority is sought to discontinue service on the ground of inadequacy of return and that consumers can, without inconvenience, secure similar service at reasonable rates.

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A public hearing was held by Examiner Westover at Wasco, at which both applications were consolidated for hearing and decision, and the interested parties were given an opportunity to be present and heard.

The plant consists of a 6-inch cased well, 102 feet deep, from which water is pumped by a 1-horsepower electric motor into a 3000-gallon galvanized iron storage tank located in a three-story frame tank house. The greater portion of the distribution system was installed by the consumers.

Mr. M. R. MacKall, one of the Commission's engineers, submitted an appraisal of the plant and system, agreed to by the applicant, in which the estimated original cost was shown as $972 and the replacement annuity $15, calculated by the 6 per cent sinking fund method. The amount of $186 was recommended as a reasonable allowance for the future annual operation and maintenance expense.

The evidence fails to show that applicant's consumers can be supplied with water from any other source. Apparently they will be wholly without water service if the application to discontinue service be granted. It must, therefore, be denied.

In considering the matter of rates, Mr. MacKall's estimates are considered fair and reasonable and they are adopted. Using his estimates for replacement, maintenance and operation, and allowing a fair return upon the estimated investment, shows the total estimated annual charges to be $279. The revenue for the year 1920 was $132. It is evident, therefore, that the applicant is entitled to an increase in revenue. Mr. MacKall reports that his allowance for annual operating expenses can be reduced considerably by installing an automatic electric float switch control, which he recommends. The following schedule of rates is designed to yield sufficient revenue to provide the applicant with all reasonable and necessary costs of operation, maintenance, depreciation, and provide a fair return under the circumstances upon the amount invested in used and useful public utility property.

ORDER.

John A. McGovern having made application in the above entitled matters, a public hearing having been held therein and the matters having been submitted:

It is hereby found as a fact that the rates now charged by John A. McGovern for water supplied his consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established for water service are just and reasonable rates for such service;

And basing its order on the foregoing finding of fact and on the statements of fact contained in the preceding opinion;

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It is hereby ordered, that the application of John A. McGovern for authority to discontinue water service, Application No. 6945, be and the same is hereby denied.

It is hereby further ordered, that John A. McGovern be and he is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order the following rates for water served to his consumers in the town of Wasco, Kern County, such rates becoming effective for service rendered subsequent to November 1, 1921:

Monthly flat rates applying to premises now occupied by—	
N. P. Cormack	$4 25
Balaam Vulcanizing Works	2 50
Wasco Mercantile	2 50
Frank Anderson	2 50
Henry Schmidt	1 65

It is hereby further ordered, that John A. McGovern file with the Railroad Commission within thirty (30) days from the date of this order rules and regulations governing service to his consumers, said rules and regulations to be effective on the date of their acceptance for filing by the Commission.

Dated at San Francisco, California, this twenty-first day of October, 1921.

DECISION No. 9634.

IN THE MATTER OF THE APPLICATION OF THE REEDLEY TELEPHONE COMPANY FOR AUTHORITY TO ISSUE BONDS AND FOR AUTHORITY TO INCREASE ITS RATES FOR TELEPHONE SERVICE.

Application No. 6287.

Decided October 24, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

On July 23, 1921, the Commission by Decision No. 9255 authorized Reedley Telephone Company to issue and sell at not less than 95 per cent of their face value and accrued interest $15,000 of twenty-year 7 per cent bonds subject to the condition that none of the bonds be delivered until the Commission has authorized the company to execute a deed of trust securing the payment of the bonds and that the proceeds be expended for such purposes as the Commission may authorize. In its application the company asked permission to use part of the proceeds obtained from the sale of the bonds to pay indebtedness including a $4,000 note payable to the First National Bank of Reedley and three notes aggregating $2,900 payable to the Reedley National Bank. The company reports that unavoidable delays have occurred in

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the preparation of its proposed mortgage and that the two banks mentioned have requested it to renew the notes. Inasmuch as it is intended to pay the indebtedness due the banks as soon as applicant can sell its bonds, we believe that it should be permitted to renew the notes payable to the First National Bank of Reedley and the Reedley National Bank for a term of six months; therefore,

It is hereby ordered, that Reedley Telephone Company be and it is hereby authorized to issue its six months unsecured note to the First National Bank of Reedley for the principal sum of $4,000 and its six months unsecured note or notes for the aggregate sum of $2,900 to the Reedley National Bank for the purpose of renewing notes now held by said banks, and to pay interest on such notes at not exceeding 8 per cent per annum.

The authority herein granted is subject to further conditions, as follows:

1. Reedley Telephone Company shall file with the Railroad Commission a copy of each note issued pursuant to the authority herein granted, such copies to be filed within thirty days after the issue of the notes.

2. The authority herein granted will not become effective until Reedley Telephone Company has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which minimum fee is $25.

Dated at San Francisco, California, this twenty-fourth day of October, 1921.

DECISION NO. 9636.

IN THE MATTER OF THE APPLICATION OF GEORGE J. BENNETT FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE TRUCKING SERVICE BETWEEN RANCHES IN ANDERSON VALLEY AND CLOVERDALE AND GEYSERVILLE.

GEORGE W. JOHNSON AND J. M. JOHNSON

vs.

GEORGE J. BENNETT.

Application No. 6356.

Case No. 1527.

IN THE MATTER OF THE APPLICATION OF GEORGE W. JOHNSON AND J. M. JOHNSON FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AND EXTEND THEIR FREIGHT STAGE SERVICE FROM AND BETWEEN CLOVERDALE, CALIFORNIA, AND GEYSERVILLE, CALIFORNIA.

Application No. 6621.

Decided October 26, 1921.

John W. Preston and *C. A. Linn*, by *C. A. Linn*, for Complainants and Protestants. *W. F. Cowan*, by *Douglas Brookman*, for Defendant and Applicant, Geo. J. Bennett.

BY THE COMMISSION.

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SUPPLEMENTAL OPINION.

On June 15, 1921, George W. Johnson and J. M. Johnson, as applicants in Application No. 6621, complainants in Case No. 1527, and protestants in Application No. 6356, by their attorneys, filed herein a petition for rehearing on the matters determined in this Commission's Decision No. 9027, decided May 28, 1921, alleging that there was no evidence tending to support the finding that public convenience and necessity required the operation by George J. Bennett (applicant in Application No. 6356) of an automobile truck line as a common carrier of freight between ranches in Anderson Valley and Cloverdale and Geyserville; that said applicant, George J. Bennett, had never in good faith applied or asked for a certificate of public convenience and necessity, and that said applicant, George J. Bennett, should be compelled by an order of this Commission to cease his alleged illegal operation.

A public hearing on the petition for rehearing was conducted by Examiner Handford at San Francisco on September 10, 1921, at which time the matter was duly submitted for decision.

At the hearing there was no testimony introduced, the presentation of the matter being confined to argument by counsel. The Commission has since carefully reviewed the testimony as presented in these proceedings at the public hearing before Examiner Westover at Cloverdale on March 2, 1921. It clearly is apparent from such review that no showing was made which would justify the granting of the application of George J. Bennett, many witnesses having testified as to the satisfactory service rendered by George W. and J. M. Johnson and but little complaint appearing in evidence and then of a character which indicates instances common to any transportation company and not in any wise sufficient to justify the injection of another carrier into a territory not sufficiently productive of traffic to justify the authorization of a competing line and thereby resulting in the weakening of the ability of an authorized carrier to satisfactorily serve the shipping public. The character of service heretofore rendered by applicant, George J. Bennett, is fully described in the opinion contained in Decision No. 9028 and was irregular in its nature. The status of this applicant as to his desire for authorization and as to the character of service proposed to be rendered is also fully defined in such opinion. In support of such desire he has been able to secure the signature of residents of Anderson Valley to a petition favoring the granting of his application. Evidence adduced at a public hearing from witnesses who had signed such petition indicates that the petition was signed generally on the basis that it was a matter of indifference to the signers as to who was authorized to do hauling over the route and that applicant, Bennett, should be authorized to continue the character of business in which he had been engaged for some time. The evidence does

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not, however, sustain the alleged fact that the Johnsons were not satisfactorily serving the territory in accordance with their advertised schedules.

The order heretofore made in this proceeding (Decision No. 9028, as decided May 28, 1921) authorizing George J. Bennett to operate automobile truck service between Philo and Geyserville, serving Cloverdale as an intermediate point, directed said applicant to file within twenty days from its date a schedule of rates covering the proposed service. This portion of the Commission's order has not been complied with in accordance with the Commission's regulations and correspondence with Mr. Bennett relating thereto is unanswered.

After careful consideration of all the matters in this proceeding and a review of the evidence submitted at the public hearing on March 2, 1921, we are of the opinion and hereby find as a fact that public convenience and necessity do not require the operation by George J. Bennett of an automobile truck line as a common carrier of freight between Philo and Geyserville, serving Cloverdale as an intermediate point, including the serving of ranches in the vicinity of said route.

SUPPLEMENTAL ORDER.

A petition for rehearing having been filed in the above entitled proceedings, a public hearing having been held, the matter having been duly submitted and the Commission having carefully reviewed the evidence heretofore presented and being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that the portion of the order in Decision No. 9028 as decided May 28, 1921, stating that public convenience and necessity required George J. Bennett to operate automobile truck service between Philo and Geyserville, serving Cloverdale as an intermediate point, and permitting said Bennett to serve ranches in the vicinity of the said described route, be and the same is hereby annulled and canceled.

The Railroad Commission hereby declares that public convenience and necessity do not require the operation by George J. Bennett of an automobile truck line as a common carrier of freight between Philo and Geyserville, serving Cloverdale as an intermediate point, and

It is hereby further ordered, that Application No. 6356 herein be and the same hereby is denied.

Dated at San Francisco, California, this twenty-sixth day of October, 1921.

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DECISION NO. 9637.

IN THE MATTER OF THE APPLICATION OF SANTA MONICA BAY HOME TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE SALE OF FIVE THOUSAND DOLLARS PAR VALUE OF FIVE PER CENT FIRST MORTGAGE BONDS AND ONE HUNDRED FIFTY SHARES OF ITS PREFERRED STOCK.

Application No. 7198.

Decided October 26, 1921.

L. C. Torrance, for Applicant.

ROWELL, *Commissioner*.

OPINION.

This application involves the issue of $5,000 of bonds and of $15,000 of preferred stock and the execution of a mortgage for $12,500 by Santa Monica Bay Home Telephone Company.

Applicant's articles of incorporation provide for the payment of an initial dividend on its preferred stock at a rate of not exceeding 4 per cent per annum. If after the payment of a 4 per cent dividend, any surplus earnings remain, such surplus earnings may be distributed to the common stockholders to an amount not exceeding 4 per cent of the par value of the common stock outstanding.

Any surplus remaining after the payment of 4 per cent dividend on the common stock shall be applied to the payment of dividends on the preferred and common stock equally.

The record shows that applicant proposes to purchase, for $32,000, certain property now leased by it located at No. 160 Pier avenue, Ocean Park, for its commercial office and main switch room. The property is adjacent to the Ocean Park Bank and is improved by a two-story brick building on a frontage of 28 feet 6 inches, and by a one-story brick building on a frontage of 21 feet 6 inches. The company plans to add a second story to the latter building and use it for its long distance business, thereby centralizing local and long distance business under one roof and insuring permanent installation of apparatus.

Applicant desires permission to sell the bonds at 70 per cent of their face value and the stock at 85 per cent of its par value. It proposes to use the $16,250 obtained by such sale, together with $3,250 in cash, as an initial payment on the properties. The remaining $12,500 of the purchase price of $32,000 will be covered by a note bearing interest at 6 per cent per annum and payable not later than three years after date of issue. The payment of the note is to be secured by a mortgage. The company has not filed with the Commission a copy of the mortgage. The authority herein granted will not become effective until applicant has filed with the Commission a copy of its proposed mort-

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gage and the Commission by supplemental order has authorized its execution.

Applicant reports that the $5,000 of bonds have been reacquired by it and are held in its treasury.

While the order herein will permit of the issue and sale of the bonds at 70, I ordinarily would not look with favor upon the issue of bonds at that figure. It is, of course, understood that the authority herein granted does not bind the Commission in the future to authorize the issue of bonds at this price, by applicant, or by any other company.

I herewith submit the following form of order:

ORDER.

Santa Monica Bay Home Telephone Company having applied to the Railroad Commission for permission to issue stock and bonds and to execute a mortgage, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Santa Monica Bay Home Telephone Company be and it is hereby authorized to issue and sell $5,000 of its first mortgage 5 per cent bonds due in 1935 at not less than 70 per cent of their face value and accrued interest, a $12,500 6 per cent note payable on or before three years after date, and $15,000 of its preferred stock at not less than 85 per cent of its par value, and to use the proceeds to pay in part the purchase price of the properties to which reference is made in the opinion preceding this order.

The authority herein granted is subject to conditions as follows:

1. The Commission will not, because of the authority herein granted, be bound to include in a rate base the consideration being paid for the properties which applicant intends to purchase.

2. The authority herein granted will not become effective until applicant has filed with the Railroad Commission a copy of its proposed mortgage, and the Railroad Commission, by supplemental order, has authorized its execution.

3. Applicant shall keep such record of the issue and sale of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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4. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

5. The authority herein granted will apply only to such stock, bonds and note as may be issued, sold and delivered on or before April 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-sixth day of October, 1921.

DECISION No. 9638.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 7126.

Decided October 26, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

In the above entitled proceeding Midland Counties Public Service Corporation asks permission to refund its underlying bonds, consisting of $257,000 of 6 per cent Midland Counties Gas and Electric Company first mortgage bonds, due January 1, 1932, and $454,000 of 6 per cent Midland Counties Public Service Corporation first and refunding bonds due October 1, 1953, through the issue and sale of a like amount of 7½ per cent general refunding mortgage gold bonds at not less than 94 and accrued interest; and to issue and sell $801,000 of its general refunding mortgage gold bonds and to secure in part the payment of such $801,000 of general refunding mortgage gold bonds by the deposit of $801,000 of first and refunding mortgage bonds.

The issue and sale of the $801,000 of general refunding mortgage gold bonds and the deposit of the $801,000 of first and refunding mortgage bonds is authorized by Decision No. 9567, dated September 27, 1921.

Applicant amended this application at the hearing and now asks permission to refund only the $454,000 of first and refunding mortgage bonds through the issue of a like amount of general refunding mortgage gold bonds at 94 and accrued interest. The record shows that the $454,000 of first and refunding mortgage 6 per cent bonds were sold at 90 and accrued interest. It is proposed by applicant to issue

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in exchange for each $1,000 first and refunding 6 per cent mortgage bond plus $40 in cash, a $1,000 general refunding 7½ per cent mortgage gold bond due September 1, 1956. If the $454,000 of first and refunding mortgage 6 per cent bonds are refunded, as proposed by applicant, its cash resources will be increased by the sum of $18,160. The annual nominal interest charge on the $454,000 of 6 per cent bonds amounts to $27,240. The annual nominal interest charge on $454,000 of 7½ per cent bonds will amount to $34,050, or $6,810 more than on a like amount of 6 per cent bonds. Assuming the company can earn 7½ on the $18,160 additional cash which it believes it can secure through the refunding of the $454,000 of 6 per cent bonds, it will realize on the $18,160 investment $1,362. Deducting the $1,362 from the $6,810 leaves a net increase of $5,448 in the nominal annual interest charge.

It is urged by applicant that the refunding of the $454,000 of first and refunding 6 per cent mortgage bonds will enable it to sell in the future its general refunding bonds at a better price. The Commission's attention is also called to the fact that some of the first and refunding bonds are held by estates in the process of distribution and that as a result of the distribution of the estates the bonds will become more widely distributed and that on account of such distribution it may become more difficult to effect an economical exchange of the bonds hereafter.

ORDER.

It occurs to us that applicant's request to refund its first and refunding mortgage 6 per cent bonds is a reasonable one and that it should be granted subject to the conditions of this order; therefore,

It is hereby ordered, that Midland Counties Public Service Corporation be and it is hereby authorized to issue $454,000 of its general refunding mortgage 7½ per cent gold bonds, to refund $454,000 of first and refunding mortgage 6 per cent gold bonds now outstanding and to deposit said $454,000 of first and refunding mortgage 6 per cent gold bonds with the trustee under its general refunding mortgage.

The authority herein granted is subject to further conditions, as follows:

1. None of the $454,000 of 7½ per cent general refunding mortgage gold bonds may be issued until all the owners of the $454,000 of first and refunding mortgage 6 per cent bonds have agreed to exchange their bonds on the basis of $1,000 face value of bonds plus $40 in cash for $1,000 face value of 7½ per cent general refunding mortgage gold bonds, and the company has collected the $18,160, or said sum has been deposited in escrow for the benefit of the company pending the delivery of the $454,000 of 7½ per cent general refunding mortgage gold bonds.

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2. The authority herein granted does not permit of the partial refunding of the first and refunding mortgage 6 per cent bonds, nor does it permit applicant to effect the refunding of such bonds at a cost in excess of that outlined in this order.

3. The $18,160 which applicant will receive from the holders of its first and refunding mortgage 6 per cent bonds, if such bonds are refunded through the issue of the $454,000 of 7½ per cent general refunding mortgage gold bonds, may be used for the purpose of paying indebtedness due the San Joaquin Light and Power Corporation.

4. Midland Counties Public Service Corporation shall keep such record of the issue, deposit and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will apply only to such bonds as may be issued, deposited and delivered on or before December 31, 1921.

Dated at San Francisco, California, this twenty-sixth day of October, 1921.

DECISION No. 9641.

IN THE MATTER OF THE APPLICATION OF THE HANFORD WATER COMPANY, A CORPORATION, FOR AN ORDER PERMITTING AND AUTHORIZING IT TO BORROW MONEY AND ISSUE AND DELIVER ITS PROMISSORY NOTES IN EVIDENCE THEREOF, AND TO SECURE SAME BY ISSUING AND DELIVERING CERTAIN OF ITS CORPORATE BONDS.

Application No. 7264.

Decided October 26, 1921.

F. N. Isaac, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

The Hanford Water Company asks permission in this proceeding to issue $20,000 face value of 6½ per cent notes and to secure the payment of such notes by the deposit of $20,000 of its 6 per cent bonds.

Applicant has an authorized stock issue of $200,000, of which $191,000 is outstanding. It has no outstanding bonded indebtedness. In 1907 it executed a trust deed securing an authorized issue of $100,000 of 6 per cent bonds payable March 1, 1930. Of these bonds $60,000 face value have been heretofore issued. The testimony, however, shows that all of the $60,000 of bonds have been redeemed and canceled. Applicant's authorized but unissued bonds amount to

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$40,000. Of these it proposes to issue $20,000 to secure the payment of two notes; one note for $10,000 payable in five years, the other for $10,000 payable in ten years.

The record shows that during the past two years the city of Hanford has caused extensive paving to be done upon several of its streets in which water mains and service pipes of applicant are located. In some instances the efficiency of the pipes had become impaired, while in other instances the mains were of insufficient capacity to supply the growing needs of the inhabitants of the city of Hanford. For these reasons and in order to avoid the greater expense of replacing its water mains after the streets had been paved, applicant concluded to replace some of its water mains with new and larger pipes.

F. N. Isaac, secretary of The Hanford Water Company, testified that the company expended approximately $26,000 to replace water mains and service pipes. Of the amount so expended, it secured $17,500 from the First National Bank of Hanford through the issue of one-year notes bearing interest at the rate of 7 per cent per annum. Applicant also reports that it has sunk a new well on which there remains due $1,210. To pay its current indebtedness, applicant has made arrangements to borrow $20,000 from P. McRae, one of its directors. It appears that P. McRae is willing to loan the company $20,000 with interest at the rate of 6½ per cent per annum, such loan to be evidenced by two promissory notes in the sum of $10,000 and $10,000, respectively; the first of which shall be payable in five years after its date and the second in ten years after its date. P. McRae desires that the company secure the payment of the notes by the issue and deposit of $20,000 of its first mortgage 6 per cent bonds.

According to the testimony of F. N. Isaac, it is possible that the city of Hanford will, within the near future, pave additional streets, and if this is done it may become advisable for applicant to replace additional mains. It is for this purpose that applicant will use $1,290, which is the difference between the $20,000 loaned from P. McRae and applicant's present indebtedness consisting of $17,500 of notes payable to the First National Bank; and $1,210 due on its new well. I believe that this application should be granted and herewith submit the following form of order:

ORDER.

The Hanford Water Company, having applied to the Railroad Commission for permission to issue $20,000 face value of notes and issue and deposit $20,000 of its first mortgage bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of the

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notes and bonds herein authorized is reasonably required by applicant and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that The Hanford Water Company be and it is hereby authorized to issue at not less than face value thereof two promissory notes in the principal sum of $10,000 each, one payable in five years after its date and the other payable ten years after its date; said notes to bear interest at the rate of not exceeding 6½ per cent per annum, and to issue and deposit as security for the payment of the notes herein authorized $20,000 face value of its first mortgage 6 per cent bonds, payable March 1, 1930.

The authority herein granted is subject to further conditions, as follows:

1. Of the proceeds realized through the issue of the $20,000 face value of notes, $17,500 may be used to pay the notes held by the First National Bank of Hanford and $1,210 to pay the balance due on applicant's new well. The remainder of the proceeds realized through the issue of the notes herein authorized shall be expended only for such purposes as the Railroad Commission may hereafter authorize by supplemental order.

2. As payments are made on the notes herein authorized, a proper proportion of the bonds deposited as collateral to secure the payment of such notes shall be returned to applicant and thereafter not disposed of by applicant in any manner whatsoever except as permitted by the Railroad Commission.

3. The Hanford Water Company shall keep such record of the issue, sale and deposit of notes and bonds herein authorized and of the use of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

5. The authority herein granted will apply only to such notes and bonds as may be issued on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-sixth day of October, 1921.

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DECISION NO. 9642.

IN THE MATTER OF THE APPLICATION OF EL DORADO POWER COMPANY, A CORPORATION, AND WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR A CERTIFICATE UNDER SECTION FIFTY (*a*) OF THE PUBLIC UTILITIES ACT, DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION OF THE POWER PLANTS AND PROJECT WORKS MENTIONED HEREIN, INCLUDING POWER HOUSES, DAMS, RESERVOIRS, AND OTHER STRUCTURES APPURTENANT THERETO AND NECESSARY IN CONNECTION THEREWITH, INCLUDING TRANSMISSION LINES.

Application No. 6876.

Decided October 26, 1921.

ELECTRIC UTILITY—CERTIFICATE.—Western States Gas and Electric Company is granted a certificate for the construction, through the El Dorado Power Company, a subsidiary, of a hydro-electric plant on the South Fork of the American River, the Commission finding that the release of power to other consumers now purchased from the Pacific Gas and Electric Company and the Great Western Power Company will be of benefit to the central portion of the state.

Chickering and Gregory, for Applicants.

MARTIN, *Commissioner*.

OPINION.

Western States Gas and Electric Company and its subsidiary, El Dorado Power Company, apply for an order of the Railroad Commission certifying that public convenience and necessity require the construction by applicants of a hydro-electric power plant on the South Fork of the American River, together with the necessary transmission lines and the enlargement of the existing hydro-electric plant of the Western States Gas and Electric Company.

A hearing in this application was held in Stockton on August 13, at which evidence was presented and exhibits filed showing in detail the proposed construction. The evidence before the Commission shows that Western States Gas and Electric Company now operates a comparatively small hydro-electric plant on the American River and a steam plant in Stockton, but that the greater portion of the energy sold in the Stockton division and all of the energy sold in the Richmond division is purchased. The company's business has increased steadily since 1911 and its growth is expected to continue. Plans have been made and property and water rights acquired to permit the construction of an additional plant in which energy for distribution by the Western States Gas and Electric Company may be generated and the large amount of energy purchased in the past correspondingly diminished.

These plans include the development of storage reservoirs on tributaries of the American River and the construction at a location approx-

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imately ten miles above the existing plant of a new hydro-electric plant which will have an ultimate capacity of 100,000 horsepower. The additional water resources so developed will also be available for the operation of the existing plant and it may be enlarged to a capacity of approximately 56,000 horsepower.

As a step of financing this development, the parties in interest have caused to be organized the El Dorado Power Company. It appears that the Western States Gas and Electric Company intends to acquire all of the stock issued by the El Dorado Power Company, and also issue jointly with or guarantee the payment of bonds of the El Dorado Power Company. By organizing the El Dorado Power Company and having that company construct the new hydro-electric power plant, the bonds issued will be a first lien upon the properties. It is believed that this fact will facilitate the sale of these bonds.

By releasing for the use of other consumers the energy now sold to Western States Gas and Electric Company by the Pacific Gas and Electric Company and Great Western Power Company of California the proposed development will be of benefit to the entire central portion of the state. It is proposed to carry the development on in units and there does not appear any likelihood of an over-development of hydro-electric power at any time on account of the program now contemplated.

I recommend the following form of order:

ORDER.

El Dorado Power Company and Western States Gas and Electric Company having applied to the Railroad Commission for an order certifying that public convenience and necessity require the enlargement of the existing hydro-electric plant of Western States Gas and Electric Company and the construction of a new hydro-electric plant, together with appurtenant dams, reservoirs, water conduits and transmission lines, a public hearing having been held and the matter submitted;

The Railroad Commission of the State of California does hereby certify and declare that public convenience and necessity require the construction by Western States Gas and Electric Company and El Dorado Power Company of additional reservoirs, water conduits and power plants and the enlargement of the existing plant of Western States Gas and Electric Company, all substantially in accordance with the plans as filed in this proceeding.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-sixth day of October, 1921.

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DECISION NO. 9655.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER—(1) AUTHORIZING INCREASE OF BONDED INDEBTEDNESS; (2) AUTHORIZING ISSUE OF BONDS; (3) AUTHORIZING ISSUE OF CLASS "A" SIX (6) PER CENT CUMULATIVE PREFERRED STOCK; (4) AUTHORIZING PLEDGE OF BONDS.

Application No. 7092.
Decided October 27, 1921.

WATER UTILITY—MORTGAGE—BOND ISSUE.—In permitting the execution of a mortgage to secure an authorized bond issue of $50,000,000 the Commission points out that such authority does not give applicant permission to issue and sell any of the bonds, nor does it limit the Commission's power to determine the terms and conditions under which it will authorize the issue, sale or pledge of bonds secured by such mortgage.

McKee, Tashcira and Warhaftig, for East Bay Water Company.
Frank V. Cornish, for City of Berkeley.
W. J. Locke, for City of Alameda.
Leon E. Gray, for City of Oakland.
J. Allison Bruner, for City of San Leandro.

ROWELL, *Commissioner*.

OPINION.

In this proceeding East Bay Water Company, hereinafter sometimes referred to as applicant, or the company, asks permission to increase its authorized bonded indebtedness, to execute a unifying and refunding mortgage, to pledge $2,500,000 of its first mortgage 5½ per cent bonds, to issue and sell $2,500,000 of 7½ per cent unifying and refunding mortgage bonds and to issue and sell $63,225.86 of its 6 per cent Class "A" cumulative preferred stock.

At the time this application was filed applicant had an authorized stock issue of $9,500,000, divided into the following classes:

Class "A" 6 per cent cumulative preferred	$6,000,000 00
Class "B" 6 per cent noncumulative preferred	3,000,000 00
Common	500,000 00
Total	$9,500,000 00

In Schedule "B," filed in this proceeding, the stock outstanding is reported as follows:

Class "A" 6 per cent cumulative preferred	$5,132,100 00
Class "B" 6 per cent noncumulative preferred	2,987,200 00
Common	100,000 00
Total	$8,219,300 00

Applicant's stockholders have recently voted to increase its authorized stock from $9,500,000 to $15,500,000, which consists of:

Class "A" 6 per cent cumulative preferred	$10,000,000 00
Class "B" 6 per cent noncumulative preferred	5,000,000 00
Common	500,000 00
Total	$15,500,000 00

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Prior to September 28th applicant had an authorized bonded debt of $16,250,000, divided into $15,000,000 of first mortgage 5½ per cent bonds, due January 1, 1946, and $1,250,000 of 6 per cent five-year collateral trust notes due August 1, 1923. All of the collateral trust notes have been issued and are outstanding. Of the authorized first mortgage bonds, according to Schedule "E," $11,428,900 are outstanding in the hands of the public and $1,634,000 deposited as collateral to secure the payment of the five-year notes, making a total of $13,062,900. Deducting the $13,062,900 from the authorized issue of $15,000,000 leaves $1,937,100 of these bonds unissued.

In Schedule "F" applicant reports $737,706.63 of notes payable while its accounts payable, as reported in its July 31, 1921, balance sheet, amount to $292,088.02.

Heretofore by Decision No. 9553, dated September 23, 1921, the Commission authorized applicant to issue $825,000 of its first mortgage 5½ per cent bonds to pay in part the cost of acquiring the properties of The Union Water Company of California and The Union Water Development Company. The $825,000 are not included in the $13,062,900 of bonds mentioned as outstanding in the preceding paragraph. The $825,000 constitutes part of the $1,937,100 of unissued bonds. Deducting the $825,000 from the $1,937,100 of unissued bonds leaves $1,112,100 of first mortgage bonds available for future construction.

It has been concluded by the stockholders of East Bay Water Company to increase the company's authorized bonded indebtedness from $16,250,000 to $66,250,000, the increase to be represented by a new authorized bond issue of $50,000,000. The mortgage under which the $50,000,000 of bonds are to be issued provides, among other things, that the bonds may be issued at any time in such series, maturity or maturities, interest rates, redemption and convertible and sinking fund provisions, as may be designated by the board of directors at the time of the issue of each of such series. While the order herein will permit applicant to execute a mortgage to secure an authorized bond issue of $50,000,000, it should be understood by all that such authority does not give applicant permission to issue and sell any of the $50,000,000 of bonds. Authority to execute a mortgage does not carry with it permission to issue and sell bonds, nor does it in any way limit the Commission's power to determine the terms and conditions under which it will authorize the issue, sale or pledge of bonds secured by such mortgage. A copy of applicant's proposed mortgage has been filed in this proceeding.

Applicant asks permission to issue $2,500,000 of its unifying and refunding mortgage fifteen-year 7½ per cent gold bonds, and sell said

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bonds at 94 per cent of their face value plus accrued interest. The bonds are callable on any interest payment date at 105 and accrued interest. While the order herein permits the issue of 7½ per cent bonds, such authority does not commit the Commission to the policy of authorizing the issue of 7½ per cent bonds when market conditions justify a lower interest rate. A fifteen-year 7½ per cent bond, if sold at 94, will realize the company the sum of $2,350,000. This amount it asks permission to use for the following purposes:

(*a*) $1,976,250 to reacquire $2,325,000 of its first mortgage 5½ per cent bonds;
(*b*) 373,750 to reimburse its treasury and finance the construction of additions and betterments.

During 1920 applicant, to carry forward the construction of its San Pablo reservoir and project, sold to certain banks $1,500,000 of its first mortgage 5½ per cent bonds at 85 per cent of their face value and accrued interest. It appears from the record that the banks have agreed to sell the bonds back to the company at the same price they paid for them. The company has, as recited in Decision No. 9553, dated September 23, 1921, an option to buy back at 85 the $825,000 of first mortgage bonds which it is authorized to issue as part payment for the properties of The Union Water Company of California and The Union Water Development Company.

Bearing in mind the fact that applicant will have to spend, in all probability, considerable amounts within the next few years for new construction, I believe that it is proper for applicant at this time to make provision for future financing. It is desirable that this be done now rather than after its $15,000,000 of first mortgage bonds are all issued and in the hands of the public.

In a statement filed in this proceeding, applicant reports the actual and estimated construction expenditures, which have not been financed through the issue of bonds or stock authorized by the Commission, at $252,903.42. Applicant asks permission to finance 75 per cent of the cost of these expenditures through the issue of its unifying and refunding mortgage bonds and 25 per cent of the cost through the issue of $63,225.86 par value of its Class "A" preferred stock.

Applicant in its proposed mortgage agrees that it will not issue and sell any more of its first mortgage bonds. All of the unissued first mortgage bonds will, if their issue is authorized by the Railroad Commission, be deposited with the trustee under the unifying and refunding mortgage. In addition, there will also be deposited with said trustee any and all first mortgage bonds which the company will reacquire and which will not have to be canceled under applicant's first mortgage. At this time applicant asks permission to deposit with the trustee under the unifying and refunding mortgage the $2,325,000

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of first mortgage bonds it intends to acquire from certain banks and The Union Water Company of California and The Union Water Development Company or their creditors, and in addition thereto issue and deposit $175,000 of first mortgage bonds, making a total of $2,500,000 of first mortgage bonds which will be deposited with the trustee under the unifying and refunding mortgage and held as part security for the payment of bonds issued under such mortgage.

I herewith submit the following form of order:

ORDER.

East Bay Water Company having applied to the Railroad Commission for permission to increase its bonded indebtedness, execute a mortgage, issue, sell and pledge bonds and issue and sell stock in the amounts indicated in the foregoing opinion, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of the bonds and stock herein authorized is reasonably required by applicant and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, as follows:

1. East Bay Water Company may increase its authorized bonded indebtedness from $16,250,000 to $66,250,000;

2. East Bay Water Company may execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed in this proceeding and marked for the purpose of identification, Exhibit "M," provided that the authority herein granted to execute such mortgage or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which such mortgage or deed of trust may be subject;

3. East Bay Water Company may issue $2,500,000 of its 7½ per cent unifying and refunding mortgage fifteen-year gold bonds and $63,225.86 par value of its Class "A" 6 per cent cumulative preferred stock;

4. East Bay Water Company may issue $175,000 of its 5½ per cent first mortgage bonds, due January 1, 1946, and deposit said bonds, together with $2,325,000 of first mortgage bonds which it is herein permitted to reacquire, with the trustee under its proposed unifying and refunding mortgage.

The authority herein granted is subject to further conditions, as follows:

A. The unifying and refunding mortgage bonds herein authorized to be issued shall be sold by applicant, for cash, at not less than 94

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per cent of their face value and accrued interest and the proceeds used for the following purposes:

(1) Not exceeding $1,996,250 to reacquire $2,325,000 of its first mortgage 5½ per cent bonds.

(2) The remaining proceeds shall be used by applicant to reimburse its treasury, and after such reimbursement be used by applicant to pay in part the notes payable or the cost of additions and betterments referred to in this application, and the accrued interest on the bonds.

B. The stock herein authorized shall be sold by applicant, for cash, at not less than $75 per share net to applicant, and the proceeds used to reimburse its treasury, and after such reimbursement to pay in part the notes and the cost of additions and betterments referred to in this application.

C. East Bay Water Company shall keep such record of the issue and sale of the bonds and stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

D. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to $175.

E. The authority herein granted will apply only to such bonds and stock as may be issued, sold and delivered on or before March 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of October, 1921.

DECISION No. 9666.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING THE ISSUANCE OF TEN-YEAR COLLATERAL TRUST GOLD BONDS, THE EXECUTION OF THE TRUST DEED AND MORTGAGE SECURING THE SAME AND THE PLEDGING OF FIRST MORTGAGE BONDS AS PART OF THE SECURITY THEREOF.

Application No. 6307.

Decided October 28, 1921.

Walter S. McFarland, for Applicant.

BRUNDIGE, *Commissioner*.

FIFTH SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 8399, dated November 30, 1920, as amended, authorized Southern Counties Gas

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Company of California to execute a trust deed securing the payment of a total authorized issue of $1,000,000 of ten-year collateral trust 8 per cent gold bonds, due December 1, 1930, and

Whereas, the Railroad Commission by various orders in this proceeding has authorized applicant to issue and sell at not less than 95 per cent of face value and accrued interest, $900,000 of such collateral trust bonds, and

Whereas, applicant now reports in Exhibit "B," attached to the fifth supplemental petition in Application No. 6306, that up to August 31, 1921, it has expended $251,237.60 for permanent extensions, additions, betterments and improvements to its existing plant and property, against which it has issued no bonds, and

Whereas, to finance in part such expenditures, applicant in its fifth supplemental petition in the above entitled matter, asks permission to issue and sell at not less than 95 per cent of face value plus accrued interest an additional $100,000 of collateral trust bonds (Series "F") and to secure their payment by the deposit of $131,300 of its first mortgage bonds; and,

A public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income; now, therefore,

It is hereby ordered, that Southern Counties Gas Company of California be and it is hereby authorized to issue and sell on or before March 31, 1922, at not less than 95 per cent of their face value plus accrued interest, $100,000 of Series "F" ten-year collateral trust bonds and to use the proceeds to reimburse its treasury for moneys expended for extensions, additions, betterments and improvements referred to herein, and after such reimbursement, to pay current liabilities reported in the fifth supplemental petition in Application No. 6306.

The authority herein granted is subject to further conditions, as follows:

1. The payment of the $100,000 of Series "F" collateral trust gold bonds herein authorized may be secured by the deposit of $131,300 of applicant's 5½ per cent first mortgage bonds. As the collateral trust bonds are redeemed, a proper proportion of applicant's first mortgage bonds deposited as collateral shall be returned to applicant and thereafter not disposed of in any manner whatsoever except as authorized by the Railroad Commission.

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2. The authority herein granted to issue bonds will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $100.

3. Southern Counties Gas Company of California shall keep such record of the issue and sale of the bonds herein authorized, and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing fifth supplemental order is hereby approved and ordered filed as the fifth supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-eighth day of October, 1921.

DECISION No. 9667.

IN THE MATTER OF THE APPLICATION OF COAST TRUCK LINE, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF ONE HUNDRED (100) SHARES OF ITS CAPITAL STOCK.

Application No. 7173.

Decided October 28, 1921.

Henry J. Bischoff, for Applicant.
Warren E. Libby, for Boulevard Express.

BY THE COMMISSION.

OPINION.

Coast Truck Line, a corporation operating a freight truck service between San Diego and Oceanside and between Los Angeles and Escondido, via Oceanside, asks permission to issue and sell at par $10,000 (100 shares) of its capital stock and to use the proceeds to finance in part the cost of additional equipment.

A public hearing was held before Examiner Westover in Los Angeles on October 22, 1921.

Applicant reports that in order to maintain and improve its existing service it has been found necessary to purchase additional equipment at a total cost of $10,018.46. This equipment is described in the amended Exhibit "A," filed at the hearing, as follows:

One Federal two-ton truck	$2,599 08
Four trailers with bodies	6,005 00
One Ford roadster, business car	648 63
Special bodies for three trucks	615 75
Oil storage tanks	30 00
Three warehouse platform scales	120 00
	$10,018 46

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A. B. Christianson, applicant's auditor, testified that $10,018.46 represents the actual net purchase price of the equipment.

It appears that a portion of this equipment has already been purchased by funds advanced by applicant's stockholders and that arrangements have been made for the purchase of the remaining equipment. It is the intention of the company to issue to its stockholders stock in payment for advances made by them.

The record shows that applicant's present stockholders have agreed to buy all of the $10,000 of stock herein applied for at par, without discount for brokerage or commission.

We are of the opinion that the application should be granted.

ORDER.

Coast Truck Line, a corporation, having applied to the Railroad Commission for permission to issue and sell $10,000 of stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Coast Truck Line, a corporation, be and it is hereby authorized to issue and sell on or before April 1, 1922, $10,000 (100 shares) of its capital stock and to use the proceeds to finance, in part, the cost of the equipment described in the amended Exhibit "A," filed at the hearing of this proceeding.

The authority herein granted is subject to further conditions, as follows:

1. The stock herein authorized shall be sold at not less than par net to the company.

2. Coast Truck Line, a corporation, shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-eighth day of October, 1921.

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DECISION No. 9670.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE ADDITIONAL BONDS IN THE AMOUNT OF NINE HUNDRED TWENTY-NINE THOUSAND THREE HUNDRED EIGHTY-NINE DOLLARS AND TWENTY-SIX CENTS, AND TO SELL OR PLEDGE THE SAME.

Application No. 6306.

Decided October 28, 1921.

Walter S. McFarland, for Applicant.

BRUNDIGE, *Commissioner.*

FIFTH SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 8399, dated November 30, 1920, in Application No. 6307, authorized Southern Counties Gas Company of California to execute a trust deed securing the payment of an authorized issue of $1,000,000 of ten-year collateral trust gold bonds, due December 1, 1930, the payment of which is to be secured by the deposit of applicant's first mortgage bonds; and

Whereas, the Railroad Commission, by orders in this proceeding, has heretofore authorized applicant to issue and deposit $1,073,775.66 of first mortgage bonds to secure the payment of $900,000 of collateral trust bonds authorized to be issued by orders in Application No. 6307; and

Whereas, applicant in its fifth supplemental application in the above entitled matter reports that up to August 31, 1921, it has expended $251,237.60 for permanent extensions, additions, betterments and improvements to its existing plant and properties against which it has issued no bonds; and

Whereas, applicant, because of such expenditures, asks permission to issue and deposit $131,300 of its first mortgage bonds to secure the payment of $100,000 of Series "F" collateral trust bonds; and

A public hearing having been held, and it appearing to the Railroad Commission that applicant's request should be granted, and that the money, property or labor to be procured or paid for by the issue and deposit of such bonds is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expense or to income; now, therefore

It is hereby ordered, that Southern Counties Gas Company of California be and it is hereby authorized to issue $131,300 of its first mortgage bonds, and to pledge them as collateral to secure the payment of $100,000 of Series "F" collateral trust gold bonds; provided—

1. That all moneys obtained through the deposit of the $131,300 of first mortgage bonds be used to reimburse applicant's treasury and

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thereafter used to pay in part current indebtedness reported in its fifth supplemental petition in this proceeding.

2. That the said $131,300 of bonds be deposited at the ratio of $131.25 face value of first mortgage bonds for every $100 face value of collateral trust bonds issued, and that as the collateral trust bonds secured by first mortgage bonds are paid, a proper proportion of the first mortgage bonds deposited as collateral be returned to applicant and thereafter not disposed of by applicant in any manner whatsoever, except as authorized by the Railroad Commission.

3. That applicant keep such record of the issue and deposit of the bonds herein authorized as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. That the authority herein granted shall apply only to such bonds as may be issued and deposited on or before March 31, 1922.

The foregoing fifth supplemental order is hereby approved and ordered filed as the fifth supplemental order of the Railroad Commission.

Dated at San Francisco, California, this twenty-eighth day of October, 1921.

DECISION No. 9671.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO SELL CERTAIN REAL PROPERTY.

Application No. 7176.

Decided October 28, 1921.

E. W. Cunningham, for Applicant.

BRUNDIGE, *Commissioner.*

OPINION.

Southern California Edison Company applies for authority of the Railroad Commission to transfer to Huntington Land and Improvement Company certain real property located in or near the city of Vernon, and used for the storage of supplies and equipment.

The lot in question came to the Edison Company with the other properties of Pacific Light and Power Corporation, having previously been used by that concern as a pole storage yard. The Edison Company had its principal storeroom on Llewellyn street in Los Angeles and since the consolidation of Pacific Light and Power Corporation prop-

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erties has maintained storage facilities at both locations. The lease on the Llewellyn street property will expire shortly, and to consolidate scattered warehouses and storage yards and to provide room for necessary expansion the Edison Company desires to secure from Huntington Land and Improvement Company a twenty-four-acre site near Alhambra. Arrangements have been made to exchange the Vernon property, which is valued at $60,000, for the proposed new site near Alhambra, appraised at $62,000, upon payment by the Edison Company of $2,000 as further consideration.

It appears that this transfer will result in better facilities and more efficient operation and that the authority applied for should therefore be granted.

I recommend the following form of order:

ORDER.

Southern California Edison Company having applied to the Railroad Commission for authority to transfer to Huntington Land and Improvement Company certain real property located in or near the city of Vernon, Los Angeles County, and more particularly described in the application filed in this proceeding, a public hearing having been held, the matter submitted and the Railroad Commission being of the opinion that such authority should be granted;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to transfer to Huntington Land and Improvement Company, under the conditions described in this application, certain real property located in or near the city of Vernon and more particularly described in this application.

It is hereby further ordered, that within sixty days after the date of execution thereof, Southern California Edison Company shall file with the Railroad Commission a certified copy of the deed under which it secures title to the properties acquired from Huntington Land and Improvement Company pursuant to the authority herein granted.

Approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-eighth day of October, 1921.

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Decision No. 9674.

ALBERS BROTHERS MILLING COMPANY

vs.

SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, NORTHWESTERN PACIFIC RAILROAD COMPANY, WESTERN PACIFIC RAILROAD COMPANY.

Case No. 1471.

IN THE MATTER OF THE INVESTIGATION OF THE TRANSIT PRIVILEGES — MILLING, CLEANING, STORING AND OTHERWISE TREATING IN TRANSIT GRAIN AND GRAIN PRODUCTS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, NORTHWESTERN PACIFIC RAILROAD COMPANY, SOUTHERN PACIFIC COMPANY, WESTERN PACIFIC RAILROAD COMPANY, SACRAMENTO NORTHERN RAILROAD COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, AND SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY.

Case No. 1526.

Decided October 28, 1921.

RAILROAD RATES—MILLING IN TRANSIT—OUT-OF-LINE HAULS—DISCRIMINATION.—The Commission found that discrimination existed in the cases of South Vallejo and Colusa by the granting to them of the out-of-line haul transit privileges, and in the cases of Stockton and Los Angeles by the carriers declaring these points intermediate via routes that are not natural, or short line routes, and directed that such discrimination be removed.

MILLING IN TRANSIT—OUT-OF-LINE HAUL—RADIUS ESTABLISHED.—Milling in transit on grain and grain products is established for all points that can be reached by an out-of-line haul of 100 miles, with a reasonable charge, graduated according to fixed distances.

MILLING IN TRANSIT—EFFECT OF.—The substantial effect of milling in transit is to permit raw material to be shipped to and the finished product from the milling point under a total charge which equals the through charge on the finished product from the point of origin of the raw material to the destination of the finished product.

G. W. Squires, for Albers Brothers Milling Company.

C. W. Durbrow, *F. B. Austin* and *M. A. Cummings*, for Southern Pacific Company.

G. H. Baker, for The Atchison, Tokepa and Santa Fe Railway Company.

Seth Mann, for San Francisco Chamber of Commerce.

N. W. Hollingsworth, for Oakland Chamber of Commerce.

G. J. Bradley, for Sacramento Merchants' and Manufacturers' Traffic Association.

F. M. Hill, for Fresno Traffic Association.

F. P. Gregson, for Associated Jobbers of Los Angeles, and milling interests of Southern California.

J. C. Sommers, for Stockton Chamber of Commerce.

L. H. Rodebaugh, for San Francisco-Sacramento Railroad.

H. E. Woolner, for Los Angeles Grain Exchange and Great Western Milling Company.

James S. Moore, Jr., for Western Pacific Railroad Company.

Fred E. Petit, Jr., for Salt Lake Railroad Company.

F. F. Miller, for Nicholl-Loomis Company.

LOVELAND, *Commissioner.*

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OPINION.

In this proceeding the milling in transit privileges extended to shippers of grain and grain products by the rail carriers within the State of California on intrastate business is brought into question.

In Case No. 1471, Albers Brothers Milling Company, a corporation, operating a mill at Oakland Pier, in Alameda County, filed a complaint against the Southern Pacific Company alleging that its milling in transit rules and practices are discriminatory and unlawful to the extent that certain out-of-line hauls are permitted by defendant at South Vallejo, Colusa and Stockton which are not permitted at Oakland.

A hearing was held at San Francisco, at which developed circumstances and conditions that led the Commission to initiate Case No. 1526, an investigation upon its own motion of the entire question of milling in transit of grain and grain products within the State of California.

Further hearings were held in Los Angeles and San Francisco, at which it was stipulated by all concerned that the evidence presented in each case would apply alike to the other in so far as relevant and material. And these matters having been heard together are consolidated for opinion and order.

The result of the present milling in transit arrangement is that no other mills in California enjoy the same transportation cost and convenience as the mills at Colusa, South Vallejo and Stockton, on account of the three last named milling points being granted the out-of-line haul privilege. It was contended by the defendant, Southern Pacific Company, that South Vallejo was granted the milling in transit out-of-line haul privilege for the reason of its peculiar location. It being a bay point at the end of a branch line on navigable water has always been considered, for rate making purposes, as upon the main line. The reason for this is that Port Costa, also a bay point, is upon the main line of the Southern Pacific railroad and directly intermediate between the Sacramento and San Joaquin Valleys, and Oakland and San Francisco, two large consuming markets.

The same water competition exists at South Vallejo as at Port Costa, these points being opposite each other on the north end of San Francisco Bay, and because of their location South Vallejo and Port Costa are necessarily on the same rail rate basis, otherwise business would move by water. The out-of-line haul at Colusa was likewise extended to that point on account of water competition, while the out-of-line haul granted Stockton was to meet competition of the other carriers as well as water competition and, further, because from points north of Merced, via Oakdale-Stockton branch of the Southern Pacific, Stockton is

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directly intermediate to any destination north or west thereof. However, there is no charge made at Stockton as there is at Colusa and South Vallejo, Stockton being given the advantage of its inherent geographical location by being declared intermediate from both Sacramento and San Joaquin Valley points.

Testimony showed that shipments of grain originating in the Sacramento Valley could be milled at Colusa, 12.9 miles off the main line, or at South Vallejo, 40.2 miles off the main line, and then reforwarded to Oakland or San Francisco or other destinations at the charge applicable to the finished product from the point of origin to destination, with a small additional charge for the out-of-line haul, and that shipments from San Joaquin Valley points, as well as from Sacramento Valley points, could be milled at Stockton and forwarded to the large markets of San Francisco, Oakland and other points at the through charge from point of origin to destination applicable to the finished product.

The evidence further showed that shipments originating in the San Joaquin Valley and the Sacramento Valley could be milled at Oakland only when the finished product is destined to points to which Oakland is directly intermediate. Furthermore, it was shown that in many instances through rates are not provided between Sacramento Valley points and San Joaquin Valley points, and Coast Division points on the Southern Pacific and, therefore, shipments destined to coast points would pay combination of local rates to and from the milling points, whereas in practically all instances through rates are provided from Sacramento and San Joaquin Valley points to Oakland and San Francisco, but the subject of through rates is not before the Commission in this proceeding.

The practice by carriers of providing milling in transit privileges on grain and grain products is almost universal throughout the United States. Various rules are applied in different sections by the same carriers and different rules in many instances are applied in the same sections by the different carriers serving such territory. The substantial effect of milling in transit is to permit raw material to be shipped to and the finished product from the milling point under a total charge which equals the through charge on the finished product from the point of origin of the raw material to the destination of the finished product.

In some instances an additional charge is made for transit privileges or for an out-of-line haul when milled at a point not directly intermediate between the point of origin and destination, or there sometimes is an additional charge for both milling in transit and the out-of-line haul.

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Prior to federal control of railroads there were no milling in transit privileges provided by carriers for grain and grain products on California intrastate business. During the period of federal control the Director General established milling in transit in Arizona, Nevada and California. No designation was made by the Director General as to whether the transit privileges applied to state or interstate business, and the natural assumption was that the Director General looked upon all carriers as a single system and, therefore, the transit privileges applied to all business.

At the time milling in transit was established the order of the Director General referred only to transit at directly intermediate points, but the Southern Pacific Company simultaneously provided for out-of-line haul at Colusa, South Vallejo and Stockton. When publishing the above transit arrangements the Santa Fe made Los Angeles intermediate on traffic originating beyond Todd and destined Orange, Fullerton, Santa Ana and points south thereof. The Southern Pacific Company and the Santa Fe are the only carriers in California that make provision in their transit arrangements for out-of-line haul in connection with milling in transit privilege. The Salt Lake Line, Northwestern Pacific, San Francisco-Sacramento, Pacific Electric and Western Pacific Companies provide for milling in transit privileges only at directly intermediate points.

The defendants contended there was no discrimination against the Oakland mill in favor of the South Vallejo mill, but carriers' Exhibit A, which was a statement of the movement of carloads from these two points, showed that each of the two mills ship wheat, feed, mill feed, barley and rolled barley, illustrating to that extent that these mills are in competition.

On the other hand, it was shown that the mill at Stockton manufactures practically the same kind of materials as are manufactured by the mill at Oakland and while the tariff does not specifically provide for Stockton, that point receives practically the milling in transit privileges on all traffic by reason of routing instructions, making Stockton intermediate between point of origin and destination. The same is true of Los Angeles in the case of the Santa Fe, where Los Angeles is declared intermediate to Santa Ana and points south, while by the natural route Los Angeles would not be intermediate.

Milling in transit privilege is obviously useful and profitable to millers. The significant thing about a milling in transit arrangement is its tendency to place the miller at an intermediate point on a more nearly equal footing with the miller at the producing point. The possibility of abuse in the establishment of transit privileges is also self evident.

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Taking all these things into consideration, we are of the opinion that discrimination exists in the cases of South Vallejo and Colusa by the granting to them of the out-of-line haul transit privilege, and in the cases of Stockton and Los Angeles by the carriers declaring these points intermediate via routes that are not natural, or short line routes, and that such discrimination should be removed.

These carriers voluntarily established out-of-line haul transit privileges on grain and grain products after they had recommended to the San Francisco District Freight Traffic Committee of the Railroad Administration against the proposition of any milling in transit at all. In the publication of the rules and charges, however, they did not grant the out-of-line haul and milling in transit privileges upon a nondiscriminatory basis within the State of California.

We believe the discrimination should be removed by extending the milling in transit privileges, the out-of-line haul and intermediate routing in the same manner as now applies at Colusa, South Vallejo, Stockton and Los Angeles.

We believe that under all circumstances and conditions prevailing milling in transit on grain and grain products should be accorded all points which can be reached by an out-of-line haul of one hundred miles and that a reasonable charge should be made for such out-of-line haul. A suitable order will be issued.

ORDER.

It is hereby ordered, that the defendants, Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad Company, Northwestern Pacific Railroad Company, Southern Pacific Company, Western Pacific Railroad Company, Sacramento Northern Railroad, Pacific Electric Railway Company and San Francisco-Sacramento Railroad Company, be and the same hereby are ordered to establish and file, effective on five (5) days' notice to the public and to this Commission, milling, cleaning, storing or otherwise treating in transit arrangements on carloads of grain and grain products applicable to all points on the lines of these defendant carriers within the State of California, and to establish out-of-line haul and intermediate routing to all points within one hundred miles, and that a charge be made for out-of-line haul, as follows:

Rates in cents per 100 pounds:

45 miles and under	2 cents
60 miles and over 45 miles	3 cents
80 miles and over 60 miles	4 cents
100 miles and over 80 miles	5 cents

Such rates to be established within thirty (30) days of the date of this order.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-eighth day of October, 1921.

DECISION No. 9675.

IN THE MATTER OF THE APPLICATION OF WHITTIER WATER COMPANY FOR AUTHORITY TO INCREASE RATES.

Application No. 4815.

Decided October 28, 1921.

WATER UTILITY — CONTRACT RATES — REASONABLENESS OF — JURISDICTION. — Whether rates collected by a water utility under the terms of deeds or contracts are more or less than reasonable rates is held to be outside the jurisdiction of the Commission and has no bearing upon the regulation of rates for the public utility portion of a service.

Jas. S. Bennett, for Whittier Water Company.
Fredrick W. Smith and *D. L. DiVecchio*, for J. O'Sullivan and C. H. Benton.
Frank G. Swain, for E. O. Dickinson and Anna Warne; also for Jessie M. Robertson, water user in Luitweiler Tract.
Haas and Dunnigan, by *Walter F. Haas;* and *Bradner W. Lee, Kenyon F. Lee* and *Bradner W. Lee, Jr.*, by *Kenyon F. Lee*, for Deeded Water Right Owners.
A. *Moore*, for himself and Alice E. Moore, as owners of lots 72 and 74 in the Orcharddale Tract; also for G. C. Ivey.

BY THE COMMISSION.

PRELIMINARY ORDER FOR TEMPORARY RATES.

The application in this proceeding was filed on the second day of August, 1919. A large number of protests were filed, raising the question of this Commission's jurisdiction as to certain phases of the Whittier Water Company's operation. After protracted argument, hearings and briefs, the matter was submitted on the preliminary question of jurisdiction, and the Commission, by its order of June 28, 1921 (Decision No. 9171), dismissed the proceeding as to certain named protestants, in so far as it referred to the service of water by the applicant to such protestants, pursuant to the terms of the contract or deed referred to in the protests. The matter then came up for further hearing on the sixteenth of September, 1921, at Los Angeles, before Commissioner Benedict. Further evidence was submitted at that time by the applicant and by the Commission, bearing directly upon the question of rates. At the conclusion of this hearing, it was stipulated by all parties concerned that the matter might be deemed submitted upon the evidence which had been presented for the purpose of fixing a temporary rate pending the final decision herein.

This was done upon the understanding and condition that any excess of such temporary rates over the amounts heretofore authorized by the

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company's filed schedules should be impounded, and, upon the final decision herein, the excess of such temporary rates, if any, over the amount finally fixed by the Commission as the rates to be charged by this company, should be refunded to the consumers.

The evidence which has been introduced indicates clearly that the present rates of this utility are unreasonably low, and that an increase is justified. In reaching this conclusion, we have not endeavored to segregate any portion of the company's operations, nor endeavored to determine what the reasonable operating costs and revenues of such segregated portion would be. This is an impossible thing with this company. Its entire business has been carried on as a unit. Much of its service of water as a public utility is incidental to and not separable from the operations carried on in serving water as a matter of private contract. Many of those who appeared as protestants and whose protests were sustained by the prior order herein, in so far as the service of water under contracts and deeds is concerned, also receive surplus or extra water from this company, acting in its public utility capacity. In addition it is shown that the company furnishes domestic water and irrigating water to a large number of so-called casual users, who have no claim upon the company by virtue of any deed or contract. This service is rendered in an agricultural community and water is supplied to the different kinds of users from the same mains and pipe lines.

No segregation, therefore, would be possible for the purpose of determining rates for the public utility operations of the company. It is not necessary that such segregation be made. It has been possible, by taking into consideration the entire operation of this company and making an analysis of its investment, operating costs and revenues, to determine what would be the reasonable rates if all the water distributed were subject to regulation. This method is the same as that employed by the Commission in other cases where similar circumstances were presented. The rates determined in this way represent the just and reasonable rates to be charged for that portion of the company's business which is of public utility character. As to the rest of the business which is subject to the terms of deeds or contracts as to the rates charged, the company may receive more or less than the rates fixed by the Commission. As to whether or not the rates collected under the terms of deeds or contracts is more or less than the reasonable rates is a matter outside the jurisdiction of the Commission and has no bearing upon the regulation of rates for the public utility portion of the service.

Referring now to the evidence presented on the matter of rates we find that an increase above the rates now in effect is justified.

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A summary of the water sales for 1920 follows:

Classification	Deeded rights and contracts, miner's inch hours	Extra water, miner's inch hours	Domestic water, cubic feet	Industrial water, cubic feet
Deeded rights above ditch	287,100			
Sundry users, deeded rights above ditch		66,950		
Deeded rights below ditch	182,600			
Sundry users, deeded rights below ditch		24,400		
Colima	527,900			
Orchard Dale	449,600			
Stamy	111,950			
Luitweiler	103,500			
Evergreen	229,700			
Santa Gertrudes Water Company	59,100			
Santa Gertrudes Irrigation Company	297,450		110,900	
Special contracts	128,600			
Hart contract	116,184			
Sundry users, La Habra Valley		117,050		
Sundry users, miscellaneous		388,300		
Metered, domestic			1,273,550	
Metered, industrial				12,255,000
Walnut Irrigation Company	80,450			
Totals	2,574,134	596,700	*1,381,450	†12,255,000

*Equals 19,224 miner's inch hours.
†Equals 170,208 miner's inch hours.

The sum of all sales for 1920 was 3,360,260 miner's inch hours.

Commission's Exhibit No. 3 sets out the reasonable annual charges, including interest on all the properties, as $112,876. This was estimated on the basis of the present operation of the plant. At the present time the plant is not being operated to the capacity it was during 1920 and for that reason the expenses for power and fuel and operating labor are much less. The revenues are also correspondingly lower.

The industrial use consisted of the sales to oil companies and was delivered through the La Habra Water Company's lines. The agreement to use this company's lines has been canceled and the oil companies are being supplied by the La Habra Water Company. The Whittier Water Company's sales are further reduced by the sundry water sales in La Habra Valley and the sales to the Colima Tract. The contract between the Colima Tract and the Whittier Water Company was canceled by mutual agreement.

It is believed that, with the exception of the changes in the sales noted above, the sales for 1921 will be approximately the same as those for 1920, or 2,545,108 miner's inch hours. Using this total and the estimated reasonable annual charges set out above, the cost per miner's inch hour is 4.43 cents. Using the gas, power and operating labor costs for 1920 and the estimated reasonable expenditures for the remaining

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accounts, the reasonable expenditure for 1920 is $127,540, and the cost per miner's inch hour delivered is 3.8 cents.

The company's pipe lines in most cases are built to carry the total amount of water which the company has the right to develop, but at no time has the company used them to their capacity, with the exception of the Bassett and Bartolo lines, which have been utilized to the full amount of the company's rights, or approximately so. However, at the Judson plant only 600 miner's inches of a possible 1000 miner's inches have been developed, although the pipe lines and conduits as far as they have been constructed have been designed to take care of the full development of the company's rights at this location. In other words, the system is largely overbuilt for the present number of consumers, and by allowing interest on the total capital invested, as was done in the above computation, the cost per miner's inch hour is increased over what it should be for the present consumers.

It appearing from the foregoing discussion that the public utility rates of the Whittier Water Company should be increased;

It is hereby ordered, that the Whittier Water Company be and it is hereby authorized and directed as follows:

1. To file with this Commission within twenty (20) days from the date of this order the following temporary rates:

Meter rates: domestic—per month.	
First 600 cubic feet or less	$1 60
Next 1400 cubic feet, per 100 cubic feet	12
All over 2000 cubic feet, per 100 cubic feet	07
Irrigation rates.	
Per miner's inch hour, 4 cents.	

2. To put in effect the rates set out above for all public utility water supplied on and after November 1, 1921.

3. The above rates to be and remain effective upon the following conditions and not otherwise:

(*a*) That said company shall impound and hold intact in a separate fund all moneys collected hereunder in excess of the rates heretofore authorized.

(*b*) That in case the permanent rates finally set by the Commission are less than those established in this order, then the company shall refund the difference to the consumers.

It is understood that this is not a final order in this proceeding and that the Commission will establish a permanent rate for the public utility service of this company and make such further order in a subsequent decision as to it may seem proper with reference to the matters involved.

Dated at San Francisco, California, this twenty-eighth day of October, 1921.

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DECISION NO. 9677.

IN THE MATTER OF THE APPLICATION OF JAMES A. MURRAY, WILLIAM G. HENSHAW AND ED FLETCHER, COPARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF THE CUYAMACA WATER COMPANY, FOR AN ORDER AUTHORIZING AND ESTABLISHING A SURCHARGE TO PAY FOR THE COST OF OPERATION OF PUMPING FROM UNDERGROUND RESERVOIRS.

Application No. 6767.

Decided October 29, 1921.

WATER UTILITY—SURCHARGE GRANTED CONDITIONALLY—CASE REOPENED.—Surcharge granted Cuyamaca Water Company, with provision for impounding all money received for such surcharge, pending final decision. Case reopened upon request of irrigators to be heard

ROWELL, *Commissioner.*

OPINION ON REHEARING.

The above entitled proceeding was originally heard on June 2, 1921. It appeared to the Commission that the applicant, at that time, failed to make sufficient showing to justify the granting of a surcharge, and the decision of the Commission denying such surcharge was rendered on September 1, 1921. A petition for rehearing was filed by applicant on September 16, 1921. In this petition it was alleged that conditions had materially changed since the hearing on June 2, and that the cost of pumping water during the present season would be very much greater than was shown at the hearing on June 2.

A rehearing was granted by the Commission on September 27, 1921, and on October 7 and 8 further hearings were had by the Commission in San Diego.

In view of the order which the Commission intends to make in this proceeding, it will not be necessary at this time to go into an extended review of the evidence presented on October 7 and 8. It is sufficient to say that the Commission is of the opinion that applicant introduced sufficient evidence and established sufficient facts to justify the granting of a surcharge, and such surcharge would be granted unconditionally if it were not for certain claims by various consumers, which require consideration.

On October 15, 1921, the Commission received a petition from fifty-one persons calling themselves the "flume line consumers." This petition alleges that all the consumers are irrigators, taking water from the main flume of the applicant for the irrigation of citrus trees. The petition states, in substance, that the only notice the signers had of the hearing on October 7 was by postal card, received one or two days before said date; that they had no opportunity to see a copy of the petition for rehearing and no time to prepare for said hearing; that

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attorneys George and Preston, who represented many of the consumers, were absent from the city, and were not able to be present at the hearing, except that attorney George appeared near the close of the hearing on October 8. It is further alleged that the rates now charged are almost prohibitive and that, if given the opportunity, they can prove that water which should be reserved for their use has been sold to the city of San Diego, and that had it not been for this, pumping water from the river would not have been necessary. It is also alleged that the applicant has consistently greatly magnified its expenditures in order to mislead the Commission, and they ask that the Commission require the applicant to allow its books and accounts to be examined by an expert accountant, to be employed by them, and, finally, that the Commission reopen the case for further hearing at such time as to enable them to fully present their side of the case.

The Commission is of the opinion that a petition of this character, signed by a large number of consumers, should be given consideration. While the records show that proper and adequate notice of the hearing on October 7 was given to all parties who appeared at the original hearing on June 2, 1921, nevertheless, if, as alleged in this petition, the attorneys for these petitioners were absent from the city, and by reason thereof the signers of this petition were not represented at this hearing and did not have an opportunity to be present, or have presented for them, fully and completely, the defense which they now allege they can present if given an opportunity, the Commission will reopen the case and grant these consumers such opportunity.

As above indicated, however, the applicant did, at the hearings on October 7 and 8, present sufficient evidence to justify the granting of the surcharge. It is apparent that, if the surcharge is to be granted at all to cover the cost of pumping water for the present season, it should be granted at once. The Commission will, therefore, grant the surcharge, to take effect immediately, but will require applicant to impound all moneys received from such surcharge, and hold said moneys until the further order of this Commission, following a reopening of the case.

ORDER.

James A. Murray, William G. Henshaw and Ed Fletcher, copartners doing business under the firm name and style of the Cuyamaca Water Company, having applied to the Railroad Commission for an order authorizing and establishing a surcharge to pay the cost of operation of pumping water from underground reservoirs, a public hearing having been held, and the matter having been sumbitted:

It is hereby found as a fact, that the rates heretofore authorized to be charged for water by said applicant are unjust and unreasonable

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in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates; and basing its order upon the foregoing statements and findings of fact and upon the statements contained in the opinion preceding this order;

It is hereby ordered, that applicant be and it is hereby authorized to file within twenty (20) days from the date of this order the following rates for water, to become effective for all service rendered subsequent to December 1, 1921:

Monthly minimum charges.

⅝-inch meter	$1 25
¾-inch meter	1 50
1 -inch meter	2 00
1½-inch meter	3 00
2 -inch meter	4 00
3 -inch meter	7 00
4 -inch meter and larger	12 00
Measuring boxes on the flume	2 50

For irrigation service the monthly minimum charges shall apply each month whether or not water is used.

Monthly meter rates for domestic service.

From 0 to 1,000 cubic feet, per 100 cubic feet	$0 26
From 1,000 to 100,000 cubic feet, per 100 cubic feet	16
Over 100,000 cubic feet, per 100 cubic feet	11

Monthly meter rates for irrigation service.

From 0 to 1,000 cubic feet, per 100 cubic feet	$0 26
From 1,000 to 2,000 cubic feet, per 100 cubic feet	11
Over 2,000 cubic feet, as follows, per 100 cubic feet:	
For all consumers on flume except city of El Cajon	06
For Lemon Grove Mutual Water Company, Helix Mutual Water Company, or other tracts supplied with water under pressure for irrigation purposes through privately owned pipe lines operated by consumers	05
For all consumers supplied with water for irrigation purposes under pressure through pipe lines owned or operated by the company	07

Monthly rates for public service.

For all water used for road or street sprinkling or sewer flushing, per 100 cubic feet	$0 16
For hydrants, fire use only	2 00

To Indians on El Capitan Indian Reservation, no charge.

Service to consumers on Grossmont system.

Consumer supplied with water pumped by the Grossmont pumping plant shall be charged in accordance with the foregoing rates plus a surcharge of 20 per cent.

The above rates are to continue in effect until such time as the Commission shall render its decision after further hearing as hereinafter ordered, or until the Commission shall order otherwise.

It is further ordered, that all moneys collected hereunder in excess of the rates heretofore authorized shall be impounded and held intact by applicant, and the excess, if any, of the rates herein fixed above the rates to be hereafter fixed after further orders herein, shall be refunded to the consumers; and

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It is further ordered, that applicant shall keep an exact account of all moneys collected hereunder from each consumer in excess of the rates hereinbefore established.

It is hereby further ordered, that the order of submission herein be set aside, and that this proceeding be reopened and set down for further hearing on Tuesday, the twenty-ninth day of November, 1921, at 2.30 p.m., before Commissioner Rowell, in the court room of the Federal Building, San Diego, California, and that at least ten days' notice of such hearing be given to all parties previously appearing herein, and also to all signers of the petition hereinabove referred to, at the common address given by them in their petition.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of October, 1921.

DECISION No. 9682.

IN THE MATTER OF THE APPLICATION OF THE RODEO-VALLEJO FERRY COMPANY, A CORPORATION, FOR LEAVE TO ISSUE AND SELL CAPITAL STOCK.

Application No. 7251.

Decided October 29, 1921.

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tum Suden and tum Suden, by *Peter tum Suden*, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

Rodeo-Vallejo Ferry Company asks permission to sell at not less than $85 per share 1000 shares ($100,000) of its 7 per cent cumulative preferred stock and use the proceeds to pay indebtedness incurred in connection with the construction of its new ferry boat and the improvement of its terminal facilities.

Rodeo-Vallejo Ferry Company was organized in March, 1918. It has an authorized stock issue of $500,000, divided into $300,000 of common and $200,000 of 7 per cent cumulative preferred. Under authority heretofore granted by this Commission, applicant has issued $400,000 of its stock, consisting of $300,000 of common and $100,000 of preferred.

During the current year, applicant has placed in operation a new ferry boat, the "Aven J. Hanford." Originally the cost of this boat was estimated at from $140,000 to $175,000. Upon the completion of the boat, the actual cost was $225,717.17, a sum considerably in excess of the original estimate. Applicant further reports that during 1919

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and 1920 the teredos almost totally destroyed its wharves and slips, and that the landings both at Vallejo and Rodeo had to be reconstructed entirely at a cost of about $83,000. To complete its new boat and rebuild its wharves and slips, applicant reports that it had to borrow $150,000. Of this indebtedness $138,276.70 remains outstanding.

Recently applicant has secured a leasehold interest on certain lands of the American Smelters Securities Corporation near Tormey and has obtained permission to erect on such lands wharves and slips. Applicant also reports that it has obtained from the board of supervisors of Contra Costa County a franchise permitting it to change its landing place of its ferry boats from Rodeo to the town of Tormey. The testimony shows that the cost of establishing a terminal at Tormey will be approximately $75,000. Applicant asks permission to use the proceeds obtained from the sale of its stock to pay part of its outstanding indebtedness, and if necessary, meet some of the cost of constructing its new terminal facilities at or near Tormey.

It appears that applicant has made no final arrangements for the sale of the $100,000 of stock. Both Aven J. Hanford, president, and O. H. Klatt, secretary, of the Rodeo-Vallejo Ferry Company, are of the opinion that the stock can be sold at not less than $85 per share net to the company.

I herewith submit the following form of order:

ORDER.

Rodeo-Vallejo Ferry Company having applied to the Railroad Commission for permission to issue and sell $100,000 of stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Rodeo-Vallejo Ferry Company be and it is hereby authorized to issue, sell and deliver on or before April 1, 1922, for cash, at not less than $85 per share net, 1000 shares ($100,000) of its 7 per cent cumulative preferred stock, and use the proceeds to pay in part the indebtedness referred to in this application and construct or acquire terminal facilities at or near Tormey, Contra Costa County.

It is hereby further ordered, that Rodeo-Vallejo Ferry Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of October, 1921.

DECISION No. 9683.

IN THE MATTER OF THE APPLICATION OF SONOMA VALLEY WATER, LIGHT AND POWER COMPANY, SONOMA CITY WATER WORKS, AND THE SONOMA VISTA WATER COMPANY FOR PERMISSION TO SELL CERTAIN PROPERTIES TO THE SONOMA WATER AND IRRIGATION COMPANY.

IN THE MATTER OF THE APPLICATION OF SONOMA WATER AND IRRIGATION COMPANY FOR PERMISSION TO PURCHASE SAID PROPERTIES AND TO ISSUE ONE HUNDRED THOUSAND DOLLARS OF ITS PREFERRED STOCK AND FIFTY THOUSAND DOLLARS OF ITS COMMON STOCK FOR THE PURPOSE OF ACQUIRING SAID PROPERTIES; TO CONSOLIDATE THE DISTRIBUTING SYSTEMS OF THE THREE PROPERTIES AND TO PUT IN A CONCRETE BOTTOM IN THE RESERVOIR NOW OWNED BY SONOMA VALLEY WATER, LIGHT AND POWER COMPANY.

Application No. 6637.

Decided October 31, 1921.

Leon C. Osteyee, for Applicants.
R. E. Child, in propria persona.

LOVELAND, *Commissioner.*

SECOND SUPPLEMENTAL OPINION.

On August 31, 1921, the Commission made an order (Decision No 9453) in the above entitled matter authorizing Sonoma Valley Water, Light and Power Company to issue $100,000 of 8 per cent cumulative preferred stock subject to the conditions mentioned in said order.

On October 10, 1921, a new supplemental application was filed in this proceeding. In this supplemental applicaion the Commission is asked to make an order authorizing the sale of all the properties of Sonoma Valley Water, Light and Power Company, Sonoma Vista Water Company, and the public utility properties of the Sonoma City Water Works to Sonoma Water and Irrigation Company, and permit the last mentioned company to issue $50,000 of common stock and $100,000 of 8 per cent cumulative preferred stock.

Sonoma Water and Irrigation Company, organized during September, 1921, has an authorized stock issue of 500,000 shares of a par value of $500,000 divided into 300,000 shares of 8 per cent cumulative preferred and 200,000 shares of common.

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The Sonoma Water and Irrigation Company asks permission to pay $60,000 ($10,000 cash and $50,000 of common stock) for the properties of Sonoma Valley Water, Light and Power Company. The Commission in Decision No. 9453 expressed the opinion that not more than $50,000 of stock should be outstanding against the properties of Sonoma Valley Water, Light and Power Company. It is now proposed, however, to issue $50,000 of stock for the properties as part payment, and pay in addition thereto $10,000 in cash to enable Sonoma Valley Water, Light and Power Company to pay its indebtedness. Sonoma Water and Irrigation Company to realize $10,000 in cash from the sale of stock will have to sell at 80, $12,500 of its preferred stock, so that in effect $62,500 of stock would be issued to acquire the properties of Sonoma Valley Water, Light and Power Company. I am of the opinion that Sonoma Water and Irrigation Company should not issue more than $40,000 of its common stock as part payment for the properties of Sonoma Valley Water, Light and Power Company, and that not exceeding $10,000 in cash may be used to cover the remainder of the purchase price.

The Sonoma Water and Irrigation Company asks permission to sell $100,000 par value of its 8 per cent cumulative preferred stock at a price to net the company not less than $80,000. The company intends to use the proceeds from the sale of this stock for the following purposes:

(*a*) To pay in part the purchase price of the Sonoma Valley Water, Light and Power Company properties	$10,000 00
(*b*) To put a cement bottom in the reservoir now owned by Sonoma Valley Water, Light and Power Company	8,000 00
(*c*) To purchase the public utility water system of the Sonoma City Water Works	30,000 00
(*d*) To purchase the property of the Sonoma Vista Water Company	10,650 00
(*e*) To expend for extensions, betterments, meters and consolidating systems	21,350 00
Total	$80,000 00

This supplemental application involves the consolidation of the properties of Sonoma Valley Water, Light and Power Company, Sonoma Vista Water Company and the public utility properties of the Sonoma City Water Works. A general description of the properties to be consolidated is contained in Decision No. 9453, dated August 31, 1921, and Decision No. 9200, dated July 2, 1921. Detailed descriptions of the properties to be consolidated are contained in schedules 1, 2 and 3, attached hereto.

There is no doubt in my mind but that the consolidation of the properties as outlined in the supplemental application and in the testimony offered in support thereof will be for the benefit of the public.

It should be understood that an order of the Commission permitting the sale and transfer of the public utility properties here involved is

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permissive only, and does not compel any one to sell their properties if such sale is not approved by them. The sale of the properties is one which, so far as this Commission is concerned, must be agreed to by the owners of the property.

Inasmuch as Sonoma Valley Water, Light and Power Company does not intend to proceed under the authority granted in Decision No. 9453, dated August 31, 1921, I am of the opinion that the order in that decision should be vacated and set aside.

I herewith submit the following form of order:

SECOND SUPPLEMENTAL ORDER.

Sonoma Water and Irrigation Company having applied to the Railroad Commission for permission to issue $50,000 of common and $100,000 of 8 per cent cumulative preferred stock, and to acquire properties, and the owners of the properties which the company intends to acquire, having asked permission to sell such properties, a public hearing having been held and the Commission being of the opinion that the supplemental application filed on October 10, 1921, should be granted subject to the conditions of this order;

It is hereby ordered, that Sonoma Valley Water, Light and Power Company, Sonoma City Water Works and Sonoma Vista Water Company be and they are hereby authorized to sell their properties, described, respectively, in schedules 1, 2 and 3 attached hereto, to Sonoma Water and Irrigation Company.

It is hereby further ordered, that Sonoma Water and Irrigation Company be and it is hereby authorized to purchase the properties described in schedules 1, 2 and 3 attached hereto and to issue $40,000 of common stock and $100,000 of 8 per cent cumulative preferred stock.

The authority herein granted is subject to the following conditions:

1. The preferred stock herein authorized to be issued shall be sold by Sonoma Water and Irrigation Company, for cash, at not less than $80 net to the company.

2. The common stock herein authorized to be issued, together with $10,000 obtained from the sale of preferred stock, when the expenditure of said $10,000 is hereafter authorized by the Commission, shall be delivered to the Sonoma Valley Water, Light and Power Company in full payment, free and clear of all encumbrances, for its properties, more fully described in schedule 1, attached hereto.

3. Of the proceeds realized from the sale of preferred stock, the company may expend for commission or brokerage fees and organization expenses an amount equal to 20 per cent of the par value of the stock, assuming that the stock is sold at par or more. If the stock is sold for less than par, the amount that may be expended for commission or

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brokerage fees and organization expenses shall be limited to the difference between the selling price of the stock and 80. Commission or brokerage fees may be paid only in proportion to the amount of cash actually paid by stock subscribers. All proceeds, other than the amount which is herein permitted to be expended, must be deposited by the Sonoma Water and Irrigation Company in a bank or banks and not expended for any purpose other than that hereafter authorized by the Railroad Commission. All expenses, such as the cost of advertising, traveling expenses, printing prospectuses, etc., incident to the sale of the stock, as well as the usual organization expenses, must be paid out of the allowances for commissions or brokerage fees or organization expenses.

4. Sonoma Water and Irrigation Company shall file with the Commission the name and the postoffice address of each stock subscriber, together with the amount of stock subscribed, the price at which the subscriber has agreed to purchase the stock and the payment made by each stock subscriber; such information to supplement the reports called for by the Commission's General Order No. 24.

5. Sonoma Water and Irrigation Company shall file with the Commission a copy of its prospectus, if any is printed or distributed, a copy of its stock subscription agreement, and a copy of each and every agreement under the terms of which any individual or individuals are employed to act as agent or salesman for the company to sell the stock herein authorized. The stock subscription agreement shall contain a provision to the effect that the company agrees to return to the subscriber, in the event not enough stock can be sold to carry out the company's plans, the amount paid by any stock subscriber, less the commission or brokerage fees and organization expenses allowed by the Railroad Commission, and less such other expenses as the Railroad Commission shall authorize the company to pay.

On each stock subscription agreement and on any prospectus distributed by Sonoma Water and Irrigation Company shall appear this language:

"While the Railroad Commission has authorized the issue and sale of this stock, its order is permissive only and does not constitute a recommendation or endorsement of the stock."

6. Sonoma Water and Irrigation Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before March 1, 1922.

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It is hereby further ordered, that the order in Decision No. 9453, dated August 31, 1921, be and it is hereby vacated and set aside.

The foregoing second supplemental opinion and order are hereby approved and ordered filed as the second supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of October, 1921.

The properties which Sonoma Valley Water, Light and Power Company intends to sell and which it is authorized to sell by the order of the Railroad Commission of the State of California, preceding this schedule, are described by the company as follows:

SCHEDULE 1.

This indenture, made the _____ day of October, one thousand nine hundred and twenty-one, between Sonoma Valley Water, Light and Power Company, a corporation organized and doing business under the laws of the State of California, and having its principal place of business at Sonoma, Sonoma County, California, the party of the first part, and Sonoma Water and Irrigation Company, a corporation organized and doing business under the laws of the State of California, and having its principal place of business at Sonoma, Sonoma County, California, the party of the second part,

Witnesseth: That the said party of the first part in consideration of the sum of ten and 00/100 ($10) dollars, lawful money of the United States, to it in hand paid, by the said party of the second part, the receipt whereof is hereby acknowledged, does by these presents grant, bargain and sell, unto the said party of the second part, all those certain lots, pieces or parcels of land situate in the county of Sonoma, State of California, and bounded and described as follows, to wit:

All the real property described in that certain deed dated September 11, 1912, from Yalupa Land and Water Company, a corporation, to L. L. Lewis, and recorded in the office of the recorder of said county of Sonoma, on the nineteenth day of September, 1912, in liber 302 of deeds, on page 182; also all the real property described in deed dated September 11, 1912, from L. L. Lewis to Sonoma Valley Water, Light and Power Company, a corporation, and recorded in the office of the county recorder of said Sonoma County, on the nineteenth day of September, 1912, in liber 302 of deeds, at page 184.

Also that certain lot, piece or parcel of land situated in the county of Sonoma, State of California, and bounded and described as follows, to wit:

Commencing at a point at the northwest corner of the Lewis Tract, subdivision A, as same is laid down and delineated upon that certain map of the Lewis Tract, as recorded in the office of the recorder of the county of Sonoma, State of California, on December 21, 1910, in liber 21 of maps, at page 19; thence due west 2190 feet; thence at right angles due north, 4271 feet; thence at right angles due west 601 feet; then south 89 degrees 30 minutes west, 1712.7 feet; thence south 84 degrees 15 minutes west, 1008.5 feet; thence south 17 degrees 15 minutes west, 50 feet; thence south 54 degrees 30 minutes east, 188.8 feet; thence south 130.7 feet; thence south 5 degrees east, 120.8 feet; thence south 42 degrees 45 minutes east, 100 feet; thence south 26 degrees 15 minutes east, 142 feet; thence south 7 degrees west, 118.8 feet; thence south 39 degrees 45 minutes east, 108.2 feet; thence south 17 degrees 30 minutes west, 175 feet; thence south 22 degrees east, 240.2 feet; thence south 42 degrees 15 minutes east, 161.7 feet; thence south 3 degrees 30 minutes west, 180.8 feet; thence south 12 degrees east, 184.8 feet; thence south 20 degrees east, 169 feet; thence south 39 degrees 30 minutes west, 257.4 feet; thence south 30 degrees east, 154.4 feet; thence south 4 degrees east, 295 feet; thence south 45 degrees 15 minutes east, 184.8 feet; thence south 60 degrees 15 minutes east, 277.9 feet; thence south 41 degrees 45 minutes east, 140.6 feet; thence south

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46 degrees 45 minutes east 130 feet; thence south 18 degrees 15 minutes east, 171 feet; thence south 75 degrees 15 minutes east, 179.5 feet; thence south 54 degrees 45 minutes east, 160.5 feet; thence south 46 degrees 15 minutes east, 266.6 feet; thence north 74 degrees 15 minutes east, 185.5 feet; thence south 24 degrees 15 minutes east, 238.3 feet; thence south 44 degrees 45 minutes east, 175.6 feet; thence south 60 degrees 45 minutes east, 292.4 feet; thence south 70 degrees 15 minutes east, 145.2 feet; thence south 34 degrees east, 696.3 feet; thence south 34 degrees 45 minutes east, 971.5 feet; thence due east 2190 feet; thence at right angles due north, 1100 feet to the place of beginning; containing in all 304.5 acres. Being a portion of Petaluma Rancho, in township 5 north, range 6 west, Mount Diablo meridian, and lying and being in the county of Sonoma, State of California, near the town of El Verano.

Also excepting, all those certain lots, pieces or parcels of land situate, lying and being in the county of Sonoma, State of California, and deeded by Sonoma Valley Water, Light and Power Company, on August 20, 1920, to R. J. Dowdall, containing 10 acres of land, more or less.

Also the following described real property, recorded in book 402, at page 494, Sonoma County records, and described as follows:

Commencing at an iron pipe, being the northwest corner of lot forty-nine (49) subdivision of the Lewis Ranch, as shown in book 27 of maps, page 21, Sonoma County records; thence along the northerly line of the land of Theodore Umsladem, to a fence east of Biggins; thence south along the said fence to the southwest corner of the property of the Sonoma Valley Water, Light and Power Company; thence east to a point at the junction of the property of the Sonoma Valley Water, Light and Power Company, and Mrs. J. Oliver and Edna Hoen; thence north along the westerly boundary of the Oliver and Hoen property to the reservoir of the Sonoma Valley Water, Light and Power Company; thence north 34 degrees 51 minutes east, 251.20 feet to an iron pipe; thence north 47 degrees 28 minutes east, 293.50 feet to an iron pipe; thence north 53 degrees 14 minutes west 450.60 feet to the place of beginning, containing 20 acres, being part of the Petaluma Rancho, Sonoma County, California.

Together with the tenements, hereditaments and appurtenances belonging thereto, or appertaining, and the reversion and revisions, remainder and remainders, rents, issues and profits thereof.

FRANCHISES.

1. A fifty-year franchise, dated in 1910, from the County of Sonoma, granting the right to lay mains, laterals and all connections necessary for the distribution of water over any county highway for a distance of five miles in any direction from the Southern Pacific depot at El Verano.

2. A fifty-year franchise, dated 1910, from the incorporated city of Sonoma, granting permission to lay mains, laterals and all necessary connections to distribute water over the streets of the city of Sonoma.

PERSONAL PROPERTY.

One-half mile of 8-inch casing and one-half mile of 4-inch wood stave pipe leading to the storage reservoir.

One-half mile of 8-inch casing and three and one-half miles of 8-inch wood stave pipe leading into and through the town of Sonoma; three miles of 4-inch wood stave pipe; one mile of 2-inch cast-iron pipe; three hundred (300) feet of cast-iron pipe.

Together with connections and laterals for about 175 consumers.

All other improvements not heretofore listed; all fencing of any character and all other property owned by the Sonoma Valley Water, Light and Power Company, and used and useful in the conduct of their water utility business.

REAL PROPERTY.

Commencing on the westerly line of Salvador street 150 feet south of the intersection of Salvador and Turkey streets; thence south on the westerly line of Salvador street, 50 feet; thence at a right angle west 150 feet; thence at a right angle north 50 feet; thence east at a right angle 150 feet to the point of beginning, being part of lot 14.

To have and to hold, the said premises, together with the appurtenances, unto the said party of the second part, and to its successors and assigns and grantees forever in fee simple.

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In witness thereof, the party of the first part, by resolution of its Board of Directors, has caused its president to sign its corporate name hereunto, and its secretary to affix its corporate seal the day and year first above written.

The properties which Mrs. Maria V. Cutter and Mrs. Luisa V. Emparan, doing business under the name of Sonoma City Water Works, are permitted to sell by the order of the Railroad Commission of the State of California preceding this schedule are by them described as follows:

SCHEDULE 2.

Description of the tract of land sold by Mrs. Luisa V. Emparan and Mrs. Maria V. Cutter, owners in common of said tract, to the Sonoma Water and Irrigation Company, lying and being within what is known as the pueblo of Sonoma, county of Sonoma, and State of California, and more particularly described as follows, to wit:

Commencing at a point marked by an iron pin driven in the ground, within the enclosed premises immediately adjoining and surrounding the former residence of General M. G. Vallejo, in the town of Sonoma; and from which point the northwest corner of the main building of said residence is in a southeasterly direction and distant 47½ feet and the southeast corner of the pumping-station house on said premises is northwest 27.3 feet distant. Thence from said iron pin by true courses, the magnetic variation being 17 degrees 45 minutes east, north 13 degrees east 121⅓ feet to a point marked by an iron pin driven in the ground and from which a buckeye tree, eight inches in diameter, is northeast 18 inches distant; thence north 2 degrees 30 minutes east 246 feet; thence south 87 degrees 30 minutes east 320 feet; thence north 2 degrees 30 minutes east 175 feet; thence north 87 degrees 30 minutes west 560 feet; thence south 2 degrees 30 minutes west 541 feet; thence south 87 degrees 30 minutes east 213 feet to the point of beginning, containing 4.41 acres of land.

Also an easement for a right of way over a strip of land 30 feet wide, the center line of which strip is described as follows:

Commencing at a point which is south 2 degrees 15 minutes east and 15 feet distant from the southwest corner of the above described tract. Thence south 2 degrees 30 minutes west 122 feet; thence south 87 degrees 30 minutes east 312½ feet to the west line of the main avenue leading to the said enclosed premises, and terminating at this point. Also the right of way over and along said avenue. Also rights of way over the premises belonging to the parties of the first part, whenever it may be necessary to the improvement or repair of the system of waterworks belonging to the parties of the second part hereto, providing the parties of the first part hereto are fully and satisfactorily compensated for any damage thereby caused. Also all buildings and improvements located thereon.

RESERVOIR.

Reservoir 22 by 48 feet at the bottom, 24 by 50 feet at the top, 10 feet deep, capacity 84,322 gallons. Said reservoir is constructed of stone and is located on parcel "C."

PUMPING PLANT AND EQUIPMENT.

One 60-horsepower gasoline engine.

Two electric motors, 25-horsepower each, complete with all electric equipment, including switches, wiring, auto starters, etc.

Two 5-inch centrifugal pumps, delivery pipes, fittings and valves.

Miscellaneous tools and equipment.

Said pumping plant is located on parcel "A."

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TRANSMISSION MAINS.

One hundred seventy feet of 8-inch standard wrought steel pipe.

One thousand eight hundred twenty-five feet of 6-inch riveted steel pipe to the north line of Spain street in said city of Sonoma, the point of beginning of the distributive system.

Also all gate valves, air valves, tees, elbows and other fittings and appliances on transmission mains.

DISTRIBUTIVE MAINS.

Four thousand two hundred thirty-five feet of 6-inch riveted steel pipe.

Four thousand eight hundred sixty feet of 4-inch riveted steel pipe.

Four thousand seven hundred ninety feet of 5⅝-inch dipped casing.

Five thousand nine hundred eighty-five feet of 3¾-inch dipped casing.

Six thousand six hundred sixty feet of 2-inch galvanized pipe, all in place and connected up with said water plant.

Also all pipe fittings and specials on said distributive system.

Two redwood tanks on concrete foundation, each capacity of 25,000 gallons.

Also all inlet, outlet and connecting pipes, valves, fittings, etc., for these tanks.

Also all miscellaneous tools and equipment.

Also all meters and their boxes.

MISCELLANEOUS.

All other improvements not heretofore listed; all fencing of any character and all other property owned by Luisa V. Emparan and Maria V. Cutter, and used and useful in the conduct of their water utility business.

The properties which Sonoma Vista Water Company intends to sell and which it is authorized to sell by the order of the Railroad Commission of the State of California preceding this schedule are described by the company as follows:

SCHEDULE 3.

REAL PROPERTY.

Lots 1, 2, 3 and 4 in block two of the Riverside Addition to the Sonoma Vista Tract, as set forth in the official map of said tract and recorded in the office of the recorder at Santa Rosa, Sonoma County, State of California; together with a house and all improvements.

PERSONAL PROPERTY.

The entire water system, including pumping plants, pipes, mains, rights of way, and all other connections, etc., which belong and are a part of said system.

DECISION NO. 9684.

PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION,

vs.

GREAT WESTERN POWER COMPANY OF CALIFORNIA, A CORPORATION.

Case No. 1668.

Decided October 31, 1921.

OPEN TERRITORY, COMPETITION, POINT OF SATURATION.—When a territory is not served to the point of saturation, another utility may enter the field upon obtaining a certificate of public convenience and necessity. A liberal definition of "point of saturation" would permit a utility some opportunity for growth and expansion within the territory served by it.

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COMPETITION—DISCRETION OF COMMISSION.—It is held that the Commission must exercise its discretion in determining whether public convenience will be served by permitting another utility to enter.

COMPETITION—DEVELOPMENT.—Competition which results in the development of new uses for, and the additional sale of electric energy, as in the present case, is not to be stifled unless it appears that such competition actually results in harmful duplication and economic waste.

SERVICE.—A utility owes a duty to that portion of the public which seeks to obtain service as well as to that portion of the public which is already being served.

C. P. Cutten, for Complainant.
Chaffee E. Hall, for Defendant.

BY THE COMMISSION.

OPINION.

In this proceeding, brought by the Pacific Gas and Electric Company, the Commission is asked to restrain the Great Western Power Company of California from extending its lines into territory now served by the Pacific Gas and Electric Company, without first obtaining a certificate of public convenience and necessity, as required by section 50 of the Public Utilities Act.

The essential facts adduced at the hearing were as follows:

The Pacific Gas and Electric Company has power lines and supplies electric energy in the town of Oroville, Butte County, and in the surrounding country. It was serving this territory prior to the taking effect of the Public Utilities Act, and is successor to the rights of the Oro Electric Corporation, which was the possessor of a certificate of public convenience and necessity from the Railroad Commission, authorizing it to serve the town of Oroville and other territory in Butte County (Opinions and Orders of the Railroad Commission, Volume 1, page 269).

The Great Western Power Company has a 100,000-volt transmission line traversing Butte County from north to south, and passing a short distance east of the town of Oroville. This company has never directly rendered any local service in the county of Butte. It has no certificate of public convenience and necessity from the Railroad Commission to serve any of this territory, but its transmission line, running through Butte County, was constructed and in operation prior to the taking effect of the Public Utilities Act.

The Hutchinson Lumber Company, a West Virginia corporation, proposes to construct a lumber mill approximately three and one-half miles south of the town of Oroville. Said company also proposes to carry on logging operations near Mooretown, Butte County, approximately 25 miles from Oroville. In the first instance, the lumber company did not contemplate the use of electric energy at its mill, but desired electric service for its logging operations near Mooretown.

The Pacific Gas and Electric Company has a 4000-volt distribution line, approximately 3400 feet west, a 60,000-volt transmission line 4000

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feet west, and a similar line 2800 feet south of the millsite. The 100,000-volt transmission line of the Great Western Power Company runs approximately one mile east of the proposed mill. The Great Western Power Company, however, does not propose to serve the mill directly from this line, but proposes, for this service, to construct a 44,000-volt secondary transmission line from its power plant at Las Plumas, parallel to the transmission line, a distance of about 15½ miles.

The logging works at Mooretown are approximately 23 miles east from the nearest point on the transmission line of the Great Western Power Company and about the same number of miles northeast from the nearest line of the Pacific Gas and Electric Company. This woods service could be rendered separately at about the same cost by either company. The service at the mill could be installed by the Pacific Gas and Electric Company at considerably lower cost than by the Great Western Power Company.

Both power companies have carried on negotiations looking toward a sale of the power to the lumber company. In carrying on its negotiations with the lumber company, the Pacific Gas and Electric Company offered to serve only the mill near Oroville, and virtually refused to serve the logging works. The Great Western Power Company offered to serve both places and to make, at its own expense, the necessary new extensions which this required. On August 31, 1921, the Great Western Power Company entered into a contract with the Lumber Company to furnish power both to the mill and for the logging operations. The Pacific Gas and Electric Company claims that, *as to the mill service,* the Great Western Power Company is violating section 50 of the Public Utilities Act and is invading territory in which it has exclusive rights.

The question which presents itself for determination is: Under what conditions will the Railroad Commission protect a utility which is rendering service in a given territory from competition with another utility seeking to render a like service in the same territory? Or, stating it another way: Under what conditions, if at all, does a utility have "exclusive rights" to serve a given territory?

The principles governing the determination of this question were formulated very early in the Commission's history. The Commission's Decision No. 107, *Pacific Gas and Electric Company* vs. *Great Western Power Company* (Opinions and Orders of the Railroad Commission, Volume 1, page 203) contains an exhaustive discussion and analysis of section 50 of the Public Utilities Act. This case involved much the same question as is under consideration here. The Pacific Gas and Electric Company was serving a large territory, and the Great Western Power Company had applied to the Commission for a certificate to

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serve some of the same territory. The particular question under discussion was: Under what conditions would the Commission protect a utility from competition within a field in which it was already rendering service? The law and the policy of the Commission, as interpreted and established in that decision and as uniformly adhered to since that time, are best summed up in the following quotation (page 209):

> It certainly is true that where a territory is served by a utility which has pioneered in the field, and is rendering efficient and cheap service and is fulfilling adequately the duty which, as a public utility, it owes to the public, and the territory is so generally served that it may be said to have reached the point of saturation, as regards the particular commodity in which such utility deals, then certainly the design of the law is that the utility shall be protected within said field; but when one of these conditions is lacking, the public convenience may often be served by allowing competition to come in.

It will be seen that four distinct conditions must exist before a utility is entitled to be protected from competition in any territory. We will discuss these in the following order:

1. *Where a territory is served by a utility which has pioneered in the field.*

In the present case, the evidence is clear that the Pacific Gas and Electric Company, in so far as local service is concerned, has pioneered in the general field embracing the town of Oroville and surrounding territory.

2. *Where a utility is rendering efficient and cheap service.*

There is no evidence in the present case to show that such service as is now being rendered in this territory by the Pacific Gas and Electric Company is not efficient. The rates offered by both companies are the same.

3. *The territory is so generally served that it may be said to have reached the point of saturation, as regards the particular commodity in which the utility deals.*

(This is the fourth condition named in the above quotation, but, for convenience, we will treat it at this point.)

It will be necessary here to determine to what extent the territory in question is served and to discuss the meaning of the term "point of saturation."

The Public Utilities Act, section 50, provides that a utility may serve in a territory *without a certificate* when such territory is contiguous to its lines, and when it is not theretofore served by another utility of like character. Under the principles above set forth, the Commission *may permit* a second utility to enter a field *already served* by a utility, unless the territory is served to a *point of saturation*. Thus it is clear that if the territory is not served at all, the utility may enter it at will

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without any certificate from the Commission (assuming, of course, that the territory is contiguous to one of its lines) and if the territory is served by a utility, but not to the point of saturation, another utility may be permitted to enter, but only after it has obtained from the Commission a certificate of public convenience and necessity.

It is claimed by the Great Western Power Company that the territory in which the lumber mill is to be located is "open territory" and not "already served" by another utility. This claim is based upon the facts that the nearest Pacific Gas and Electric Company consumer is about a mile away; that the mill itself will be three and one-half miles from Oroville, and that there is considerable vacant territory around the proposed millsite. It urges in support of this contention the decision of the Commission in *Pacific Gas and Electric Company* vs. *Great Western Power Company* (known as the *Arboga* case), Decision No. 4218 (Opinions and Orders of the Railroad Commission, Volume 12, page 740). In that proceeding conditions were similar to those existing in the present case, i. e., the Pacific Gas and Electric Company had several distributing lines, roughly, about one mile from the territory proposed to be served.

We can not agree with the contention that the territory in which the proposed mill is to be located is open territory, and not already served by another utility, and that it could be entered at will without a certificate of public convenience and necessity from the Railroad Commission. Nor do we consider that the *Arboga* case supports this contention.

In that case, the Great Western Power Company itself asked for a certificate authorizing it to serve the Farm Lands Investment Company, and such a certificate was granted. That fact alone indicates clearly that the territory in question was not absolutely open territory, or else no certificate would have been required (the territory being also contiguous to an existing line). The statements in the *Arboga* case to the effect that the territory in question was not within the territory already served by the Pacific Gas and Electric Company, and that it was "open territory," must be construed in the light of the positive fact that a certificate to serve such territory was required. In the light of this fact, those statements could only have meant that territory was "not served" and was "open" in the sanse that it was not served to the point of saturation, and another utility might enter *upon obtaining a certificate*.

It is not possible to establish an exact criterion by which it may be ascertained when the point of saturation is reached. If the term be given an extreme and literal meaning, it would require that every foot of the territory in question be built up and every inhabitant served.

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Such, of course, was not the construction intended. A more liberal definition, permitting a utility some opportunity for growth and expansion within the territory served by it, should generally be allowed. In the present case, however, we have a country with undeveloped resources and a small population. Oroville, itself, is a small community, and the territory surrounding it, in so far as power consumers are concerned, is sparsely settled. There is room for a very considerable development in the sale and distribution of power. Without attempting to lay down any definite rule as to what constitutes the point of saturation, we may safely say that in the present case that point has not yet been reached. We have, then, a territory already served, but not served to the point of saturation.

The Commission must still exercise its discretion in determining whether public convenience will be served by permitting another utility to enter. The same decision from which we have been quoting sets forth the Commission's established policy as to this question (page 212):

> Competition does not necessarily become duplication unless the field covered by a natural monopoly is completely served. California has just begun her development. We have no doubt that as a rule in this state the going in of a second utility will develop a considerable amount of new business, while leaving an ample field for the existing utility.

As was said in this and other former opinions, whenever the coming of a new utility into a territory will serve to develop such territory and to build it up, either industrially or agriculturally, and thereby enhance the general prosperity of the state, such utility will not be excluded. It appears from the evidence that the Great Western Power Company was largely responsible for the action of the lumber company in changing its plan with regard to the use of power at its mill near Oroville. It is quite possible that had it not been for the efforts of that company electric energy would not have been used at all at this mill. The state is interested in the development of its natural resources through the development and sale of hydro-electric energy. This Commission has encouraged utilities to develop hydro-electric energy. Competition which results in the development of new uses for, and the additional sale of, electric energy is not to be stifled *unless it appears that such competition actually results in harmful duplicataion and economic waste.* In the present case, we do not believe that serious duplication will result. Nor is this a case where one utility is taking the "cream of the business" by taking a large consumer away from another utility which had previously served such consumer, as was the case in Decision No. 2904 (Opinions and Orders of the Railroad Commission, Volume 8, page 429). Rather does it appear here that the Great Western Power

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Company is developing business which would not otherwise have been developed.

It is apparent, therefore, that one of the four conditions referred to is lacking, and that the public convenience will be served, and it will be consistent with the Commission's established policies if the Great Western Power Company is permitted, under a certificate from the Commission, to serve the proposed lumber mill.

One more condition remains to be discussed, and it is, perhaps, the most important of all:

4. *That the utility is "fulfilling adequately the duty which, as a public utility, it owes to the public."*

A utility must fulfill adequately the duty it owes to the public. This is not the same as the "duty of rendering efficient and cheap service." We think efficient and cheap service, as used in condition number 2, means that the service *already being rendered* must be efficient and cheap. A utility owes a duty to that portion of the public which *seeks to obtain service* as well as to that portion of the public which is already being served. It is the duty of a utility, in proper cases, to make extensions in order to serve new consumers and to furnish information to prospective consumers as to the costs or terms under which such extensions may be made. The evidence in the present case shows that the Pacific Gas and Electric Company did not perform its duty to the public in this respect. The lumber company desired service at the logging works. It was entitled to know the cost of such service and under what conditions it could be obtained. The Pacific Gas and Electric Company, however, sought only to obtain the more profitable business at the mill near Oroville. The business of serving the logging works belonged as properly to the Pacific Gas and Electric Company as it did to the Great Western Power Company. It was about equally distant from the lines of each company, and could have been served by each at about the same cost. The lumber company had notified the Pacific Gas and Electric Company as early as October 28, 1920, that it was considering the electrification of its logging equipment, and would be glad to figure with the Pacific Gas and Electric Company for the power for this work. The rules of the Pacific Gas and Electric Company, on file with the Commission, provide for making extensions without cost to consumers when the estimated average annual revenue to be obtained amounts to one-third of the cost of making the extension. It was the duty of the Pacific Gas and Electric Company to facilitate the extension of its public utility service to a proposed consumer desiring such service. The exchange of correspondence between the Pacific Gas and Electric Company and the lumber company indicates that no

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statement of the terms of extensions of service was made. The lumber company was given no information which would enable it to determine whether or not it was feasible and profitable for it to use electric energy at its logging camp. On the contrary, the Pacific Gas and Electric Company informed the lumber company that it was not in a position to render the service at all. The importance of this refusal is clearly shown when it is noted that on the basis of combined service as considered by Great Western Power Company, no advance or investment in lines was required of the lumber company; while, if the service to the logging plant was to be rendered separately by either company, the rules on extensions would require an investment in advance by the lumber company of from $40,000 to $60,000.

As already stated, the evidence shows clearly that the logging operations could have been served equally as well and as cheaply by the Pacific Gas and Electric Company as by the Great Western Power Company. If that territory be regarded as open territory, it was as much the duty of the Pacific Gas and Electric Company to make the necessary extension as it was the duty of the Great Western Power Company. Public interest required that this logging camp be served with electric power. The Pacific Gas and Electric Company was in error in making the contention that the lumber company could be better served at that point from some other source. In making what was virtually a flat refusal to render service at this point, the Pacific Gas and Electric Company has not fulfilled adequately the duty which, as a public utility, it owes to the public. It is true that counsel for the Pacific Gas and Electric Company stated at the hearing that that company would willingly serve both plants if it was ordered to do so by the Railroad Commission. As indicated in Decision No. 107 (Opinions and Orders of the Railroad Commission, Volume 1, pages 210, 211), only until the time of threatened competition shall the existing utility be allowed to put itself in such a position with reference to its patrons, that this Commission may find that it is performing the duty it owes to the public.

The Great Western Power Company, according to the evidence, not only sought aggressively to serve the lumber company at both places, but readily agreed to make the necessary extensions and furnish the lumber company with all necessary cost data and information relative to the type of machinery, etc. Its efforts resulted in the signing of the contract by which the lumber company agreed to take electric energy both at the mill and in the woods. The estimated revenue to be derived from this service is $14,589 per annum at the logging works, and $45,072 per annum at the mill, or a total of $59,661 for the entire service. It should also be noted that at the present time the Great

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Western Power Company has considerable surplus of hydro-electric energy, while the Pacific Gas and Electric Company is producing considerable power by steam.

From all of the above discussion, it is clear that two of the four conditions necessary to entitle the utility to protection from competition under the principles first laid down, do not exist in this case, and that the public interest and convenience will be served by allowing the Great Western Power Company to enter the field, as to the consumer under consideration. The Great Western Power Company has asked for a certificate of public convenience and necessity to serve this consumer, and such a certificate will be granted.

In arriving at this conclusion, we are unable to pass without comment the failure on the part of the Great Western Power Company to apply for a certificate of public convenience and necessity as required by section 50 of the Public Utilities Act before entering into the contract with the lumber company. The contention of the Great Western Power Company, that this was open territory and that a certificate was not needed, has already been fully discussed. It is difficult to see how this contention could have been seriously urged in view of the fact that in the *Arboga* case, upon which Great Western Power Company relied, a certificate from the Commission was actually sought and obtained by that company. With the knowledge of that case that it clearly had, the Commission feels that the failure on the part of the Great Western Power Company to apply for a certificate of public convenience and necessity before making this contract is inexcusable.

In view of the remissness of the Great Western Power Company, the Commission would be very much disinclined to grant that company the certificate for which it asks were it not for the fact that the Commission is satisfied that by so doing public convenience and necessity will best be served.

ORDER.

Complaint having been made by the Pacific Gas and Electric Company against the Great Western Power Company of California, and application having been made by the Great Western Power Company of California for such certificate of public convenience and necessity as may be required in order to permit service and delivery of electric energy to the Hutchinson Lumber Company, and a public hearing having been held and the Commission being fully apprised in the premises;

It is hereby ordered, by the Railroad Commission of the State of California:

1. That the complaint of the Pacific Gas and Electric Company herein be and the same is hereby dismissed;

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2. That the application of the Great Western Power Company of California is hereby granted.

It is hereby declared, by the Railroad Commission of the State of California, that public convenience and necessity require, and will require that the said Great Western Power Company of California construct and make such extensions from its existing lines as will enable it to serve and deliver electric energy to the Hutchinson Lumber Company at its lumber mill at a point about three and one-half miles south of the town of Arboga and at its logging works at a point about two miles northeast of the town of Mooretown, and upon the completion of said work, deliver electric energy to the said Hutchinson Lumber Company at said points.

Dated at San Francisco, California, this thirty-first day of October, 1921.

DECISION No. 9685.

IN THE MATTER OF THE APPLICATION OF T. MORGAN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE TRUCK AND FREIGHT SERVICE BETWEEN LOS ANGELES AND CALEXICO AND INTERMEDIATE POINTS.

Application No. 6682.

Decided October 31, 1921.

AUTO TRUCK SERVICE—EFFECT ON RAIL SERVICE.—Giving consideration to distance and the through nature of the service, it is held that shippers can be better served by improving the rail service rather than by authorizing truck service.

Douglas Brookman and *S. W. Thompson*, for Applicant.
H. W. Kidd and *Rex Hardy*, for Estate of C. W. Curphey, Keystone Express, T. R. Rex, Boutelle & Fuqua, T. K. Vance, and Fred Miller.
L. N. Bradshaw, for Southern Pacific Company.
E. T. Lucey and *Paul Burks*, for Atchison, Topeka and Santa Fe Railway.
T. A. Woods, for American Railway Express Company.

BY THE COMMISSION.

OPINION.

Public hearings were held by Examiner Westover in Los Angeles and El Centro upon the above application to operate freight truck service between Los Angeles and Calexico and intermediate points lying southeasterly from Mecca.

Applicant having announced at the hearing that he did not seek to perform any local service between Los Angeles and Mecca, the Santa Fe and the truck lines, other than the lines of the Curphey estate, withdrew their respective protests or refrained from protesting the application.

The Curphey lines, by Application No. 6689, sought authority to operate a truck service between Imperial Valley points and Los

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Angeles, but the latter application was subsequently dismissed upon written request of counsel for said applicant. The Commission subsequently authorized a lease of the Curphey lines by the administrator of the Curphey estate to a corporation known as the Curphey Truck Line Company. This line, which was originally authorized by the Commission, under Decision No. 7600 of May 18, 1920, Application No. 5354, to operate locally between Calipatria and Calexico, serving Brawley, Imperial, El Centro and Heber as intermediate points, will be referred to herein as the Curphey line.

It appears from the testimony that about 92 per cent of the business of the Curphey line consists of distributing local carload freight received at El Centro via the Southern Pacific system. There is no serious complaint against the present service, but several shippers from valley points testified that they believed shipments could be considerably expedited by truck movement, as it sometimes required from three to five days to receive freight from Los Angeles at valley points, but very few specific instances were shown.

The Southern Pacific system presented a statement showing average tonnage and movement of l. c. l. freight from Los Angeles to the several valley points during March, 1921, from which it appears that goods are available for delivery at valley stations on the second and third day after shipment, the average hours in transit ranging from 47 at Brawley to 64 at Calexico and 68 at Imperial, this time being based upon 4 p.m. of the day of shipment, being the hour when the Los Angeles freight house closes. The proposed rates, including pick-up and delivery, compared with present l. c. l. rates of the Southern Pacific Company between Los Angeles and El Centro, for illustration, are as follows:

	1	2	3	4
Rail	145½	124	102	90½
Truck	182	155	127	113

At one of the later hearings, applicant submitted special commodity rates upon truck load lots of six tons minimum of 87½ cents per hundred pounds to and from Los Angeles, except that the rate to *Calexico* is 92½ cents, and the rate on sheep or hogs per truck load is $115. These rates apply to canned goods, flour, grain and grain products, lumber, potatoes and sugar from Los Angeles, and on cantaloupes, tomatoes, watermelons, grain and cotton from the several valley points, with a rate on sheep or hogs from *Calexico* of $121 per truck load, six tons maximum. The class and commodity rates referred to include pick-up and delivery at each terminal, in a zone limited to a specified wholesale district in Los Angeles, with an addition of 5 cents per hundred for a zone within a radius of one mile from the zone described.

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By way of comparison, the Southern Pacific carload rates per hundred pounds, to or from El Centro, are: canned goods 77 cents, flour 45 cents, grain and grain products 27 cents, lumber 42½ cents, potatoes 39 cents, and sugar 77 cents, cantaloupes and tomatoes 39 cents, watermelons 31½ cents, and cotton 69 cents.

The geographic situation involved is somewhat peculiar in that the territory between Calexico and Brawley is highly developed and very productive, while the territory between Brawley and Banning, a distance of 119 miles, is relatively sparsely inhabited and unproductive. Applicant does not propose any local service between Los Angeles and Mecca or intermediate points, this territory being served by the Southern Pacific Company and by other truck lines, but proposes only a truck service between Los Angeles and points east of Mecca. The rail distance from Los Angeles to Mecca is 143 miles, to Brawley 206 miles, and to Calexico, the end of the proposed line, 228 miles. The highway route which applicant would use is approximately parallel with the railroad between Los Angeles and Mecca, but passes to the west of the Salton Sea, reaching the railroad again at Brawley. The only points in this territory not served by rail which applicant proposes to serve are Westmoreland, Kane Springs and Oasis Ranch. There was no testimony indicating need of service at the two latter points. Westmoreland, by far the larger and more important of the three points, is but about eight miles from rail transportation at Brawley and is already served by C. A. Ware's truck line. It does not appear from the testimony that there is much freight moving locally between Imperial Valley points and intermediate points between Los Angeles and the valley, although there is some shipment of seed grain and feed from the valley to the Mecca-Thermal district.

The situation above outlined means that practically all freight handled by truck would be for through shipment between Los Angeles and valley points lying between Brawley and Calexico, involving a haul of about 200 miles or more, over a mountain range, with practically no freight to pick up or deliver. The elevations vary from 118 feet below sea level at Brawley to 2559 feet above sea level at Beaumont, as shown by the railroad grades. The territory between Brawley and Banning (elevation 2318 feet), a distance of 119 miles by rail, is nearly all desert country developing comparatively little freight. The climatic and geographic conditions are such as to make the cost of truck transportation relatively high and operation itself rather uncertain.

While it appears to be possible to make the trip between terminals with a loaded truck in 14 hours, which the schedule provides, the testimony on the point is far from convincing that such a schedule could be relied upon by shippers. It is very doubtful whether the proposed

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line could be operated profitably, or whether applicant will be financially able to operate at a loss for a reasonably long period to determine by experience whether the line is justified economically, or whether the line, if established, would be reasonably permanent.

The proposed service, if authorized, would tend to render the railroad less able to serve, and would probably result in an early withdrawal of truck service, after crippling the present rail service. The application, therefore, will be denied.

During the hearing of application of J. H. Eastman, after the above application was submitted, the latter was reopened to present in it testimony presented in the Eastman application, from which it appears that during ten days in October, 1921, one El Centro firm received five shipments from Los Angeles in which the time elapsed between the date of bill of lading and date of expense bill was three days as to one shipment, four days as to three shipments, and five days as to one shipment. Considering the distance, the through nature of the service to and from Imperial Valley, and that the area referred to is but a short distance south of Niland on the main line between Los Angeles and El Paso, we feel confident that the rail service can be very greatly expedited and that shippers can be better served by improving the rail service rather than by authorizing truck service.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and ready for decision:

The Railroad Commission hereby declares that public convenience and necessity do not require the operation by Thomas Morgan of an automobile truck service between Los Angeles, Calexico, and certain Imperial Valley points south of Mecca;

It is hereby ordered, that the application be and it is hereby denied.

Dated at San Francisco, California, this thirty-first day of October, 1921.

DECISION NO. 9688.

IN THE MATTER OF THE APPLICATION OF THE HUMBOLDT TRANSIT COMPANY, A CORPORATION, FOR AN ORDER PERMITTING IT TO DISCONTINUE ITS SERVICE AND TO SELL ITS OPERATIVE PROPERTIES TO THE CITY OF EUREKA, A MUNICIPAL CORPORATION.

Application No. 7227.

Decided October 31, 1921.

Myrick and Deering and Scott, for Applicant.

BENEDICT, *Commissioner*.

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OPINION.

Humboldt Transit Company, in this proceeding, asks permission to sell for the sum of $75,000 all of its operative properties to the city of Eureka and to discontinue the operation of its street railway.

It appears from the record that at an election held on the twentieth day of June, 1921, the electors of the city of Eureka authorized a bonded indebtedness in the sum of $130,000 for the acquisition, construction and completion of a certain revenue producing public improvement, to wit, a street railroad, including the acquisition of the street car system of the Humboldt Transit Company, together with the appurtenances thereof and all other property used in connection with the same, including also the purchase of additional equipment for the said street car system.

At the election 2514 votes were cast in favor, and 446 against the authorized bonded debt of $130,000.

The record shows that the Humboldt Transit Company has offered to sell its operative properties to the city of Eureka for the sum of $75,000. This offer has been accepted by the city.

Applicant has defaulted in the payment of its bond interest. Applicant's financial condition is set forth in Decision No. 9020, dated May 28, 1921, in Application No. 6727. On October 15, 1921, the Superior Court in and for the County of Humboldt made an order directing that the properties of the Humboldt Transit Company be sold on December 19, 1921. It is the intention of the city of Eureka to acquire the operative properties at such sale. It is believed that the non-operative properties will be acquired by an individual or a committee representing the bondholders.

I am satisfied that this application should be granted and submit the following form of order:

ORDER.

Humboldt Transit Company, having applied to the Railroad Commission to sell all of its operative properties to the city of Eureka and discontinue service, a public hearing having been held and the Commission being of the opinion that this application should be granted;

It is hereby ordered, that Humboldt Transit Company be and it is hereby authorized to sell on or before February 1, 1922, to the city of Eureka for $75,000 all of its operative properties, and to discontinue the operation of its street railway system.

It is hereby further ordered, that Humboldt Transit Company shall file with the Commission within thirty days after the transfer of the properties herein authorized, a copy of the deed under which title to the properties is transferred to the city of Eureka.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of October, 1921.

DECISION No. 9690.

IN THE MATTER OF THE APPLICATION OF CONELAND WATER COMPANY, A CORPORATION, FOR AN ORDER FIXING JUST, REASONABLE AND NONDISCRIMINATORY RATES FOR WATER.

Application No. 6680.

Decided November 4, 1921.

WATER UTILITY—JURISDICTION.—The fact that the company, at an early stage in its operation, did make sales of water to others outside of the land sold by the Los Molinos Land Company (the holding company), is held to characterize the enterprise as one of public rather than private interest.

Richard C. Harrison and *Douglas Brookman*, for Applicant.
McCoy and Gans, by *A. M. McCoy*, for Los Molinos.
Fred C. Pugh, for A. McCullough and other water users.
F. L. Butterway, for W. P. Saulsbury, R. T. Moorehouse and others.

BY THE COMMISSION.

OPINION.

Coneland Water Company, applicant herein, is engaged in the business of furnishing water for irrigation purposes in the vicinity of Los Molinos, Tehama County, and applies for authority to increase its rates. Applicant alleges that the present rates are discriminatory because of certain contracts with its consumers, and are noncompensatory as they do not yield sufficient revenue to produce maintenance and operating expenses. It is further alleged that the contracts which are the basis of the present rates provide for the delivery of one-fifth of a miner's inch of water per acre but that the lands irrigated require a larger quantity and that an adequate quantity has always been delivered. Wherefore the Commission is asked to establish a reasonable rate either on the old basis of one-fifth of an inch per acre or otherwise, and to determine if any portion of the supply is available for the irrigation of other lands than those which have heretofore been supplied.

In answer to the petition for increase of rates a number of consumers filed a protest, in which they raised the question of jurisdiction and claimed that they were entitled to receive the water as a matter of private contract. In addition there was filed at the time of hearing a counter petition on behalf of a large number of other consumers of the company, from which it appears that they are willing to accede to the jurisdiction of the Commission and to a reasonable

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increase in rates, upon the condition that the amount of water furnished would be increased, and that the additional revenues derived from such increased rates would be used by the company for the repair of its ditches and other improvements of its distributing system.

Public hearings were held in Los Molinos and San Francisco before Examiner Gordon, evidence taken and the matter submitted.

The question of the jurisdiction of the Commission over this company was fully considered and determined in two prior proceedings, namely: Case No. 610, *Los Molinos Citrus Farms Company et al.* vs. *Coneland Water Company,* and Case No. 671, In the matter of the rates and charges of the Coneland Water Company on the Commission's own motion. These cases were consolidated for hearing and decision, and the decision thereon was rendered September 4, 1915, Decision No. 2742. By stipulation of the parties at the time of the hearing, the record in these prior proceedings was made a part of the record herein.

After a careful review of all the evidence both in this and the prior proceedings, it is our conclusion that the applicant herein is a public utility, and that the Commission has jurisdiction to fix its rates and otherwise regulate its operations in the distribution of water for compensation to the public.

Concerning the history of this company and the character of its operations, the Commission made the following statement in its Decision No. 2742, above referred to:

> Coneland Water Company was incorporated on March 7, 1907. The articles of incorporation empower the corporation, in part, to engage in the business of diverting, appropriating and supplying water, furnishing the same for irrigation and all other beneficial uses and purposes, and to supply, furnish and distribute the same to others for compensation. The corporation is authorized to acquire water and water rights by appropriation, purchase, condemnation, eminent domain and in all other proper methods, and to collect rents and compensation for all water and water rights. Specific authorization is given to furnish and supply water and water rights to cities, towns and farming communities, and to sell, rent and distribute the same.

After referring to the appropriation of water by the predecessors in interest of the water company, the decision continues:

> Therefore, Los Molinos Land Company, which owns the entire capital stock of Coneland Water Company with the exception of the shares to qualify directors, conveyed to Coneland Water Company water rights, rights of way, ditches, and other property for the purpose of enabling Coneland Water Company to distribute and supply water. * * *.

The protestants in this proceeding are holders of water right agreements originally issued to purchasers of land from the Los Molinos Land Company. While this and other circumstances suggest in some respects an analogy between this case and those wherein so-called water certificates have been held to constitute a private right, a consideration

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of all of the evidence leads us to a contrary conclusion. The apparent intention of this company was, from the outset, to engage in the sale and distribution of water to the public generally, including that part of the public occupying land sold by the Los Molinos Land Company. The fact that the water company did, at an early stage in its operation, make sales of water to others outside of the land sold by the Los Molinos Land Company, characterizes their enterprise as one of public rather than private interests. The further fact that the water company accepted the Commission's Decision No. 2742, requiring it to deliver water to the plaintiff in that proceeding, indicates that its operations were recognized as those of a public utility.

As a preliminary consideration to the determination of rates, it is proper to refer briefly to the reasonableness and adequacy of service. Under the terms of the original water right agreement, each consumer is entitled to receive one-fifth miner's inch of water per acre per year. The evidence clearly indicates, however, that this quantity of water is insufficient to properly irrigate the lands supplied by this system. It further appears that the company has an adequate supply of water and can readily furnish double the amount originally undertaken to be furnished. The evidence further shows that two-fifths miner's inch per acre per year is necessary to properly irrigate the land. It further appears that extensive repairs are needed on the company's distribution system to prevent leakage. This repair work will not only conserve the water supply, but will also tend to mitigate the mosquito pest which has apparently been a serious condition for some years past in that locality. All these facts are referred to by the consumers, who have joined in the counter petition herein consenting to a reasonable increase in rates, and asking that the proceeds therefrom be applied by the company to the repair of its distribution system. The company has agreed to this condition. The following agreement, signed by 135 consumers and formally accepted by the company, was attached to the counter petition and filed at the time of hearing:

> It is hereby understood and agreed by and between the undersigned water users under the Coneland Water Company irrigation system, and the company, that for and in consideration of the company agreeing to accept a rate of not to exceed $3.50 per acre, and a modification of the present water contracts as to amount of water to be furnished, rate and conditions to be such as are approved by the California Railroad Commission; and the further agreement to turn over the property of the company to a legally created irrigation district at any time within two (2) years from April 1, 1921, at a price of one hundred and twenty-five thousand dollars ($125,000) and in the meantime to spend any surplus on permanent betterments the undersigned will not contest the granting of such rate as the Railroad Commission may decide to make, not in excess of $3.50 per acre, which amount we believe to be a fair rate for both the company and the water users.

Reference to this agreement will be made later in this opinion.

The area served by applicant consists of approximately 13,000 acres of valley land on the east side of the Sacramento River in Tehama

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County. This area includes the tract subdivided by the Los Molinos Land Company and such other lands as the applicant has supplied with water outside of this colony tract. The canal system necessary to irrigate this area, consists of about 125 miles of canals, varying from 100 second-feet to 10 second-feet capacity, so arranged that water can be delivered to practically every 10-acre tract within the area. The water supply is obtained from the Los Molinos River and from Antelope Creek. Both of these streams head on the slopes of Mount Lassen and are supplied largely by streams rising at the base of the mountain. These streams are noted for their uniform flow in the irrigation season. The water rights of the applicant have been settled by adjudication or by agreement, and the quantity of water they are entitled to divert is adequate to fully irrigate the area served by its canal system.

Concerning the value of the applicant's property, used and useful in the public service in the maintenance of this irrigation system, there was evidence submitted at the hearing by both the applicant and the commission, for the applicant, Mr. Thomas Means, a civil engineer, submitted an estimate of the reproduction cost, new, of the system, as of 1921. Mr. C. D. Conway, superintendent of the company, submitted an estimate of the original cost of the system, based on the quantities and costs shown by the records of the company. His testimony shows that some of the construction work was done by contract and some by the company by force account. A report was also filed by Mr. Wm. Stava, one of the Commission's hydraulic engineers, in which he set forth the estimated original cost. A comparison of these estimates is shown in the following table:

	Thos. Means	C. D. Conway	Wm. Stava
	Reproduction, 1921	Estimated original cost	Estimated original cost
Rights of way	$33,540 00		
Water rights	26,000 00	$26,000 00	
Canal system	285,618 00	181,062 00	$186,908 00
Levees, etc.	21,500 00	21,500 00	10,75. 00
Overhead	58,933 00	20,958 00	29 906 00
Total	$425,621 00	$249,520 00	$216 814 00

For the purpose of this proceeding we find the amount estimated by the Commission's engineers to be reasonable and proper as the valuation to be placed on the property of the applicant, used and useful, in the public service. It is to be noted that no allowance is made therein for rights of way or water rights, also that the amount allowed for levees is one-half of that shown in the company's estimate of original cost. This is due to the fact that the levees and bank protec-

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tion for which this expenditure was made, were useful in maintaining and protecting the ditch system, but were also equally useful in protecting the land belonging to the Los Molinos Land Company and were, in fact, constructed as much for that reason as for the protection of the ditch system.

There have been numerous additions to and retirements from capital each year since 1916. These additions and retirements consist of renewals of wooden structures with concrete structures and concrete lining. The additions to capital since 1916 amount to $14,211. Retirements during the above period were estimated at $4,054.

Including above additions and deducting the retirements from capital, the estimated present investment is as follows:

Estimated original cost as of December 31, 1914	$216,814 00
Additions and betterments, 1916-1920	14,211 00
	$231,025 00
Deductions due to retirements	4,054 00
Estimated investment, December 31, 1920	$226,971 00

A replacement annuity was computed on a 6 per cent sinking fund basis and amounts to $2,425. It is estimated that this sum accumulated annually will provide a fund to replace wornout properties.

In determining the proper allowance to be made for maintenance and operation, reference is made to the following tabulation, showing the operating expenses and revenues of the applicant as set forth in its annual reports filed each year with the Commission:

OPERATING REVENUES.

	1916	1917	1918	1919	1920
Irrigation	$12,985 67	$13,103 40	$14,244 47	$16,507 50	$16,414 30

OPERATING EXPENSES.

Operating	$6,496 18	$6,367 05	$6,168 00	$7,040 00	$7,031 51
Maintenance	8,921 70	6,969 67	5,820 44	9,475 05	15,084 28
Taxes	898 90	1,018 85	905 50	883 61	1,035 60
Totals	$16,316 78	$14,355 57	$12,894 94	$17,388 66	$23,151 39

The evidence shows that these amounts include expenditures for additions and betterments heretofore referred to, also attorneys' fees in the amount of $372.14 in the year 1920, for a suit adjudicating water rights, which is also a capital charge. Deducting these items from the above statements, the corrected totals for operating expenses are as follows:

	1916	1917	1918	1919	1920
Additions and betterments	$1,971 28	$1,945 35	$2,099 03	$3,745 79	$3,538 94
Corrected maintenance and operation	14,345 50	12,510 22	10,795 91	13,642 87	19,612 45

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Applicant also submitted an estimate of 1921 expenses, based upon the actual expenditures of 1920 and those of 1921 prior to July first. The estimate submitted of $19,500 is considered too high for the reason that it includes a certain amount of deferred maintenance, and also because it is based upon actual cost over a period when the price of labor and materials was at the peak. A large portion of the company's expenditures for maintenance is for labor and team hire. The prices paid by the applicant for these purposes in past years are as follows:

	Labor per day	Team and driver per day
1916	$2 00	$4 00
1919	4 00	6 00
1920	5 00	7 00
1921	3 50	6 00

The downward trend of labor cost as well as other items of operating expenses is now apparent. In view of these conditions, we conclude that the sum of $17,000 is the reasonable and proper maintenance and operation charge to be allowed.

Mr. Conway, for applicant, testified that the irrigable acreage within the area covered by the present ditch system amounts to 12,671 acres. The average acreage actually irrigated during the past two years is 10,016 acres per season. This would indicate that the project is 79 per cent irrigated. The revenues of the company for the years 1919 and 1920 are shown as follows:

	1919	1920
Bills sent out	$16,538 00	$17,837 00
Amount collected to date	16,507 50	16,414 30
Amount uncollected	$30 50	$1,422 70

It developed at the hearing that certain lands held by the Los Molinos Land Company have been furnished with water without charge, the acreage being 1507 in the year 1919 and 857 in the year 1920. As a reason for this it was testified by Mr. Jay Lawyer, for applicant, that the Los Molinos Land Company had advanced money each year to the applicant to pay current expenses. The amount thus advanced during 1919 was $18,126 and in 1920 was $22,400. Assuming an average of $20,000 per year thus advanced by the land company as working capital—not that such amount would be in one sum, but as needed from month to month—then a reasonable interest charge thereon at 7 per cent would be $700. The irrigation of the Los Molinos Land Company's land free of charge was considered payment for such advances. It is clear that the land company profited considerably by this arrangement. The average acreage irrigated by the land company for the two years was 1182 acres per season, which, at the current rate of $2 per acre per season, would yield to the water company $2,364 per year.

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It is clear that the proper way to have handled the matter was to charge the Coneland Water Company for money advanced each year, and for the Coneland Water Company, in turn, to charge the land company for the acreage irrigated. Allowance will be made in the method of payment of the rates hereinafter fixed to provide for working capital in order to obviate this dependence upon the land company for such working capital.

The fair valuation of the applicant's properties, used and useful, in the public service in the maintenance of this system was found to be $226,971. It was also shown that this investment was made to supply water to an area which is at the present time only 79 per cent developed. In determining the rate base in this proceeding, therefore, we shall allow a return on 79 per cent of the larger amount of $226,971. Confining the items that go to make up the estimated annual charges to those which are considered properly allowable in this proceeding, we have the following result:

Interest on $179,307 at 8 per cent	$14,345 00
Replacement fund (6 per cent sinking fund)	2,425 00
Maintenance and operating expense	17,000 00
Total annual charges	$33,770 00

This total of $33,770 for annual charges greatly exceeds the present revenues of the company derived from the rates now in effect. A large number of the consumers, as shown by the agreement attached to the petition, have agreed to an increase of rates not to exceed $3.50 per acre per season. It is interesting to note that an estimate of revenue at this rate upon the basis of 10,000 acres irrigated land last season will yield an annual income of $35,000, which closely approximates the annual charges above set forth. By the terms of this agreement, the income from such increased rates will allow the company to expend approximately $16,500 per year (including $2,425 depreciation) for permanent betterments. This sum is, roughly, five times the annual expenditures heretofore made for improvements. The necessity for concrete canal linings and replacements of wooden structures by concrete structures was clearly shown by the evidence. The flat grade of some portions of the ditch system and the silty character of the soil traversed makes water-tight embankments impossible. High seepage losses, due to such conditions and to the rapid depreciation of wooden structures, have tended to greatly increase maintenance costs, and waste the supply available for irrigation.

We conclude that the evidence herein clearly shows that the rates of this utility should be increased, and that its service conditions should be improved substantially in accordance with the agreement between the applicant and those of its consumers who have filed a counter application herein, consenting to such increase of rates.

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ORDER.

Coneland Water Company having made application to the Railroad Commission as entitled above, a public hearing having been held and the matter being submitted:

It is hereby found as a fact that the rates now charged by the Coneland Water Company, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates herein established are just and reasonable rates to be charged by said company for water.

And basing its order upon the foregoing finding of fact and the other statements of fact contained in the opinion preceding this order;

It is hereby ordered, by the Railroad Commission of the State of California, that Coneland Water Company be and it is hereby authorized and directed to file with the Railroad Commission on or before the twenty-fifth day of November, 1921, the following rates for irrigation water, said rates to become effective for service rendered after December 1, 1921:

$1 50 per acre, payable on or before March first of each year.
$2 00 per acre, payable on or before September first of each year.

It is hereby further ordered, that Coneland Water Company be and it is directed to file with the Railroad Commission within thirty (30) days from the date of this order a complete schedule of rules and regulations governing the distribution and sale of water to consumers supplied by it, said schedule to be effective on the date of its acceptance for filing by the Commission.

The effective date of this order is hereby fixed and designated as the twenty-fifth day of November, 1921.

Dated at San Francisco, California, this fourth day of November, 1921.

Decision No. 9691.

IN THE MATTER OF THE APPLICATION OF ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY WITH RESPECT TO OVERHEAD CROSSING AT MOUNT VERNON AVENUE, CITY OF SAN BERNARDINO.

Application No. 5825.

Decided November 4, 1921.

JURISDICTION.—It is held to be within the power of the Commission to make an order apportioning the expense between railroad and municipality of the repair and maintenance of a viaduct over a closed portion of a city street.

E. W. Camp and *Robert Brennan*, for Applicant.
Wm. Guthrie, for City of San Bernardino.

BY THE COMMISSION.

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OPINION.

The Atchison, Topeka and Santa Fe Railway Company has applied for an order apportioning the cost of maintenance of the Mount Vernon viaduct in San Bernardino.

A public hearing upon the application was held by Examiner Westover at San Bernardino.

It appears from the testimony that in 1907, to enable the railway company to extend and improve its yards in San Bernardino, the city, by Ordinance No. 360, closed that portion of Mount Vernon avenue between Third and Fourth streets upon condition that the company would build a viaduct over the closed portion of the avenue and for a distance of about 450 feet easterly on Third street, the company to convey to the city all of its right, title and interest in the viaduct, giving to the city license and permission to maintain the viaduct as located upon and over company property so long as the viaduct should be used for public travel; the city agreeing to maintain the viaduct in good condition and repair at all times.

Most of the above facts are recited in the company's deed to the city, dated November 5, 1908. The viaduct was accepted "in condition satisfactory to the mayor and common council of the city of San Bernardino," by resolution and order of the mayor and council. It further appeared from the testimony that the cost of said viaduct was about $57,000; that in 1907, when the agreement was reached and before the yards were enlarged, there were not to exceed six tracks across Mount Vernon avenue; that when the viaduct was finished in 1908 there were 15 tracks across Mount Vernon avenue under the viaduct.

In the fall of 1916, the company's frame station building was destroyed by fire, together with the company's shops and other property. With the purpose of increasing its facilities and enlarging its yards, the company subsequently acquired land on the east and west sides of Mount Vernon avenue and extending southerly a block to West Broadway, now known as new Third street, and built a new station at a cost of $240,000 on the north side of West Broadway or new Third street, reconstructed its shops and facilities at a cost of over $1,200,000, and extended the viaduct southerly over the enlarged yards at a cost of about $69,000.

The additional lands needed for tracks and yards were acquired with the active cooperation of the chamber of commerce of San Bernardino, which appointed a committee to aid in seeing that fair prices for lands were established. The negotiations with the city officials for the vacation of additional streets involved numerous interviews, at which it appears that nothing was said on either side as to the maintenance of the extended or new portion of the viaduct. Plans and specifications

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prepared by the company, showing its new track layout, extended viaduct, and other improvements and portions of streets to be vacated, and other lands to be dedicated by it or its subsidiary for street purposes in lieu of the streets vacated, were approved and adopted by resolution of the council, and the company caused to be deeded to the city for street purposes by the Santa Fe Land Improvement Company, a subsidiary company of applicant, land which is not now part of new Third street. These deeds, resolutions and proceedings relating to relocation of the street and extension of the viaduct do not contain any reference to the maintenance of the new or old portion of the structure. In June, 1921, the city expended about $5,000 in repairing the old portion of the viaduct which the city considered had to be repaired or closed on account of the condition of the roadway.

The viaduct, as originally constructed, began at Fourth street, extended along Mount Vernon avenue to Third street, and thence by a right angle turn to the east, was located in Third street. Beginning at Fourth street, the grade ascended at a rate of about 6 per cent to the northerly main track, was then level, and about 25 feet above the tracks to Third street; the portion in Third street descending to the street level at a grade of about 6 per cent. When reconstructed, the level portion was extended to the south about 300 feet, the inclined approach being near West Broadway or new Third street. The substantial result was to add about 300 feet to the level portion, and move the southerly approach southward.

At the time of the hearing the old portion was badly in need of repair, and it is clear from the evidence that in order to properly maintain the entire structure in the future, repairs will, from time to time, have to be made. It is exceedingly important that this viaduct be adequately maintained, for if it should, for any reason, be closed to public travel, a very dangerous grade crossing would result, which would interfere with the operation of trains and greatly imperil the safety of the public traversing such crossing. The Commission is, therefore, of the opinion that public convenience and necessity require that an order be made apportioning the cost of maintaining this viaduct.

It is urged by the city upon various grounds that the Commission is without jurisdiction to make an order apportioning cost of maintenance of this viaduct. Without going into an extensive discussion of the legal questions involved, we are satisfied, upon the authority of section 23, article XII of the Constitution, section 43 (*b*), Public Utilities Act, and *Civic Center Association* vs. *Railroad Commission,* 175 Cal. 441, that it is within the power of the Railroad Commission to make an order apportioning the expense of the repair and maintenance

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of the viaduct between the parties in such manner as the Commission may deem just.

It only remains for the Commission to determine what would be a fair and just apportionment of the cost of maintaining said conduit. Applicant urges that the city is bound to maintain the structure by reason of the fact that it originally contracted to do so. The city maintains that this contract is *ultra vires* and void.

Irrespective of these questions, we believe that the Commission has the power, under the authorities above cited, to divide this expense in any manner that it deems just. Without attempting to pass upon the validity of this contract, we are of the opinion that the arrangement to which the parties agreed is, at the present time and under existing circumstances, a fair and just arrangement, and the expense will be apportioned in accordance therewith.

What has been said, of course, applies only to the old portion of the viaduct and the equivalent portion as it stands today. As to the part which has been added, the above considerations do not necessarily apply. It is significant, in view of the earlier contractual relations between the same parties, that nothing was said or written concerning the maintenance of the new and additional level portion of the viaduct. The city had contracted to maintain the original viaduct under very similar circumstances, but did not agree to maintain the new level portion. Under the circumstances, it seems just to require the company to maintain that portion, and the order will so provide.

ORDER.

Public hearings having been held upon the above entitled application, briefs having been filed subsequent to the hearings, the matter having been submitted and is now ready for decision:

It is hereby found as a fact, that public safety, convenience and necessity require the maintenance and repair of the overhead crossing or viaduct over the tracks of The Atchison, Topeka and Santa Fe Railway Company at Mount Vernon avenue, in the city of San Bernardino.

It is further found as a fact, that public safety, convenience and necessity require that an order be made by this Commission apportioning the cost of such maintenance and repair between The Atchison, Topeka and Santa Fe Railway Company and the city of San Bernardino, in accordance with the order hereinafter contained; and basing its order upon the foregoing findings of fact and upon the opinion preceding this order;

It is hereby ordered, that the cost of maintenance of the overhead crossing or viaduct over the tracks of The Atchison, Topeka and Santa Fe Railway Company at Mount Vernon avenue in the city of San Bernardino be borne as follows, to wit:

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1. Applicant shall maintain, at its sole cost and expense, the new level portion of said viaduct, as shown outlined in red, and marked "Level" on applicant's Exhibit No. 1, otherwise described as that portion of said viaduct extending along Mount Vernon avenue from a point 513 feet south of the south line of Fourth street to a point 39 feet north of the north line of West Broadway.

2. The city of San Bernardino shall maintain, at its sole cost and expense, the old level portion and both sloping approaches to both old and new level portions, as shown on applicant's Exhibit No. 1, otherwise described as that portion of said viaduct not herein ordered to be maintained by applicant.

3. The word "new," as used above in this order, refers to those portions of said viaduct constructed in or subsequent to the year 1916.

Dated at San Francisco, California, this fourth day of November, 1921.

DECISION NO. 9692.

INVERNESS ASSOCIATION FOR FIRE PROTECTION AND GENERAL BETTERMENT

vs.

INVERNESS WATER WORKS, MRS. JULIA SHAFTER HAMILTON, OWNER.

Case No. 1537.

Decided November 4, 1921.

WATER UTILITY—FLAT RATES—METERED SERVICE.—The Commission points out that it is a well known fact that the unrestricted use obtaining under the flat rate method of delivery invariably leads to extravagant use of water. It is suggested that the metering of wasteful users will effect a conservation of the supply by reducing excessive irrigation and waste from leaky faucets and house fixtures.

Beverly L. Hodghead, for Complainant.
Chickering and Gregory, by *W. C. Fox*, for Defendant.

BY THE COMMISSION.

OPINION.

The above entitled proceeding was brought by the Inverness Association for Fire Protection and General Betterment, an unincorporated association of property owners and water users of the summer resort at Inverness, California, against Inverness Water Works, a public utility water company, engaged in the business of supplying water for domestic purposes to consumers in that community.

The complaint alleges in effect that defendant's water supply is inadequate for the needs of its consumers and that the service rendered has been irregular, with insufficient pressures; that an additional water supply is available from what is known as the second valley, which

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defendant agreed to develop when it became necessary, but that it had not done so; further, that certain intake basins on defendant's system are uncovered and maintained in an unsanitary condition.

Complainant asks that defendant be required to make such improvements to its system as will enable it to render adequate service to its consumers.

Defendant's answer generally denies all the allegations in the complaint, particularly as to the alleged inadequate supply, asserting that the present water supply is sufficient to meet the normal demands on the system.

A public hearing was held in this proceeding at Inverness before Examiner Geary.

The testimony of the consumers shows that in the late summer seasons of 1918, 1919 and 1920 a water shortage existed on the system, resulting in irregular deliveries of water and inadequate pressure during periods of daily peak draft, when the supply in the storage tanks became exhausted. While a general water shortage was not experienced during previous seasons, complaints have been made of inadequate supply and pressure by some consumers residing in the vicinity of the Colby tanks, and receiving service through the 4-inch mains.

It is noted that the late summer flow of the springs and creeks from which defendant obtains its water supply had greatly diminished during the dry season by reason of unusual and abnormally low rainfall conditions, which were not merely local, but were general throughout the state.

In order to relieve the situation defendant in 1919 and 1920 erected two additional storage tanks of 10,000-gallon capacity each; reconstructed with concrete two diversion dams, which were in a leaky and unserviceable condition; and replaced some 3000 lineal feet of 3-inch transmission main. The total tank capacity was thus increased to 42,000 gallons, which it is estimated should provide for approximately three days' consumption under normal summer use. The record shows a total of 127 active services, of which only four are metered; also that some 35 consumers are permanent residents and the remainder occupy their residences on the average about two months in the summer, with occasional week-end visits during the remainder of the year. No large growth of the community is predicted for the future.

Evidence was submitted showing excessive and wasteful use of water, mainly for irrigation of gardens, and that during the 1920 water shortage it became necessary to restrict irrigation to certain hours in order that service be maintained.

It is a well-known fact that the unrestricted use obtaining under the flat rate method of delivery invariably leads to extravagant use of

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water. In this case the metering of wasteful users will effect a conservation of the supply by reducing excessive irrigation and waste from leaky faucets and house fixtures.

The complaints of unsanitary conditions on the system were disposed of at the hearing by a stipulation that defendant will within four weeks install wire mesh over all intake basins not at present so covered and that the temporary earthen dam will be replaced with a concrete structure.

The investigation and report of the hydraulic division of the Commission indicates that the present creek supply, with three days' storage provided and proper conservation of water at the sources and the distribution end, should be sufficient for present needs and requirements of the community; that no general shortage was experienced during years of normal rainfall; also that the inadequate service and pressures complained of appear to be caused mainly by insufficient pipe capacity and poor circulation of water in the distribution mains. The report suggests that the two separate pipe distribution systems now leading from the Colby tanks be connected up to form a single system, which together with certain other changes and improvements will, it is believed, improve the service conditions and afford the desired relief.

After a careful consideration of all the evidence submitted, and in particular the facts set out herein, it is ordered as follows:

ORDER.

Complaint having been made by Inverness Association for Fire Protection and General Betterment against Inverness Water Works, as outlined in the opinion preceding this order, a public hearing having been held thereon and the matter having been submitted;

It is hereby ordered, that Inverness Water Works install within four (4) months of the date of this order the following improvements to its distribution system:

1. Install on Fones way at Douglas street a four-inch connection between the two four-inch mains leading from Colby tanks and also similar connection at Fones way and Bruce street. In lieu of said four-inch connections there may be installed two-inch connections aggregating an equal capacity.

2. Install a two-inch pipe to connect the two-inch main on Perth way leading from Colby tanks with the four-inch main at Perth way and Douglas street.

3. Install a two-inch connecting main between the lower portions of the two distributing systems leading from Colby tanks, preferably by extending the two-inch main on Summit way to connect with the two-inch main on Argyle street.

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4. Install a three-quarter-inch connection between the dead end of the two-inch main on Park avenue and the four-inch main at Bruce street and Elgin way.

5. Install wire mesh screens over all intake basins at present uncovered and also install a concrete structure to replace the south intake dam.

It is hereby further ordered, that Inverness Water Works shall, upon completion of the improvements herein ordered, report in writing to this Commission, stating in detail the work done.

Dated at San Francisco, California, this fourth day of November, 1921.

DECISION NO. 9695.

IN THE MATTER OF THE APPLICATION OF PENINSULA WATER COMPANY FOR AUTHORITY TO INCREASE RATES.

Application No. 6737.

Decided November 4, 1921.

Ross and Ross, by *H. C. Ross*, for Applicant.
J. B. Gordon and *C. N. Kirkbride*, for City of San Mateo.

MARTIN, *Commissioner*.

OPINION.

Peninsula Water Company, applicant herein, is a public utility water company engaged in furnishing water for domestic and industrial purposes in the city of San Mateo, San Mateo County, California.

Applicant alleges in effect that the present rates are unreasonably low and do not produce sufficient revenue to yield a fair return upon the investment; wherefore applicant asks that the Railroad Commission make its order authorizing a schedule of rates designed to produce a fair return on the value of the property employed in serving the public, together with all necessary operation and maintenance expenses, taxes and depreciation annuity.

A public hearing was held in the present proceeding at San Mateo, San Mateo County, and a continued hearing was held at San Francisco, of which all of applicant's consumers were duly notified and given an opportunity to appear and be heard.

It appears that the San Mateo Water Works, organized in 1885, was the first company to supply water in San Mateo. This company was succeeded by the San Mateo Water Company, which was organized February 28, 1907. The Peninsula Water Company, applicant herein, was incorporated in 1910 and acquired the property from the San Mateo Water Company.

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The water supply is obtained from wells by pumping and from the Spring Valley Water Company through the ownership of a water right. This water right provides for the delivery of 300,000 gallons of water daily to applicant's reservoir. This supply of water is sufficient for the winter demand, and furnishes about two-thirds of the average daily demand for the year, the remainder being pumped from seven 16-inch wells. The water pumped from the wells has a high chlorine content because of the seepage of salt water from San Francisco Bay but is made potable by mixing it with the Spring Valley water. The water is distributed by gravity from the reservoir to about 1500 consumers, of whom about 1260 are metered.

The water right referred to was acquired by the San Mateo Water Works from the Spring Valley Water Company in 1885 in payment for the Crystal Springs reservoir lands and the right to store and divert water from that source.

The rates in effect were established by the board of trustees in 1914 and are as follows:

Flat Rates.

Domestic	$1 25 to $1 50 per month
Small stores	50 per month
Large stores	1 00 per month
Offices	50 per month

Meter Rates.

Domestic use	22½ cents per 100 cubic feet
City use	26⅔ cents per 1000 gallons

Fire Hydrants.

Hydrants owned by city	$0 50 each per month
Hydrants owned by company	1 00 each per month

At the hearing Mr. John J. Sharon, for applicant, presented a report and appraisal of the system showing the estimated original cost to be $324,432 and the reproduction cost, using present day prices, to be $395,000. These amounts include $150,000 as the estimated original cost and $205,000 as the estimated reproduction cost of the water right hereinbefore referred to. The report also recommends a depreciation annuity of $1,700, computed on the 6 per cent sinking fund basis, and the sum of $17,500 for operating expenses.

Mr. D. H. Harroun, one of the Commission's engineers, presented a report covering the results of a field investigation, an appraisal of the property and a study of the cost of maintenance and operation. His appraisal shows an estimated original cost of the physical properties of the system, excluding the water right, to be $164,721, and recommends $1,602 as a proper replacement annuity computed by the 6 per cent sinking fund method. This report also recommends the sum of $16,493 as a fair and reasonable estimate of the future operation and maintenance expenses. These estimates closely approximate those submitted

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by applicant. They appear reasonable and will be used for the purposes of this proceeding.

Mr. H. B. Henderson, for the city of San Mateo, submitted an estimate of the cost of the water right in the sum of $120,000, based on the cost of developing 300,000 gallons of water daily from wells. It appears that it would be impossible to produce that quantity of potable water from wells because of the seepage of salt water from the bay. As stated before, the water from applicant's wells already has a high chlorine content, and only a third of the quantity used on the system is derived from that source. It was also testified that the city of Burlingame, which is located adjacent to the city of San Mateo, has been compelled to abandon its wells on account of the high chlorine content of the water and to purchase water from the Spring Valley Water Company. Therefore it would appear that the substitutional method of arriving at the cost of the water right is not applicable in this instance. However, the method suggested by Mr. Sharon of deducting the actual cost of the water right from the purchase price, appears reasonable and may be applied. The Peninsula Water Company purchased the system in 1907 for $250,000. The cost of the twenty-three acres of land was estimated to be $20,250. Depreciating the estimated original cost of the physical properties shows a value as of that date to be $79,450. This would leave $150,300 as the estimated cost of the water right. That this is a reasonable estimate for this right is shown by allowing a return of 8 per cent on the cost as a charge for the 300,000 gallons delivered daily, which would result in a rate of 8.2 cents per 100 cubic feet. If this water were furnished at its regular rates by the Spring Valley Water Company, which is the only other source of supply, the water would cost about 22 cents per 100 cubic feet. The amount of $150,300 appears to be a reasonable estimate for the cost of this right, and this amount will be added to Mr. Harroun's estimate of the physical properties, making the total estimated investment $315,021.

The following is a summary of the annual charges as indicated above:

Return on $315,021 at 8 per cent	$25,202 00
Replacement annuity, 6 per cent sinking fund	1,602 00
Maintenance and operation cost	16,493 00
Total estimated annual charge	$43,297 00

The total revenue from this system for the year 1920 was $33,958 and averaged $30,823 for the four preceding years. It does not appear that there is reason to expect any notable increase in business in the near future. It would appear therefore that authority to increase the rates should be granted, and the schedule of rates established in the

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following order is designed to produce annually a sum sufficient to meet maintenance and operating expenses, replacement annuity, and to yield to applicant a reasonable return on its investment.

I submit the following form of order:

ORDER.

Peninsula Water Company having applied to the Railroad Commission for authority to increase the rates charged by it for water service in the city of San Mateo, San Mateo County, California, a public hearing having been held, and the matter having been submitted:

It is hereby found as a fact that the rates and charges of the Peninsula Water Company, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates and charges herein established are just and reasonable rates.

And basing its order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, by the Railroad Commission of the State of California that the Peninsula Water Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following rates, said rates to be charged for all service rendered subsequent to December 1, 1921:

Flat Rates.

Domestic	$1 50 per month
Large stores	1 00 per month
Small stores	50 per month
Offices	50 per month
Each barrel of lime or cement	10
Each thousand brick	10

Meter Rates.

Readiness-to-serve charge to apply to all metered services:	
⅝″ and ¾″ meters, per month	$0 50
1″ meters, per month	1 25
2″ meters, per month	3 00
3″ meters, per month	4 50
4″ meters, per month	6 00
Quantity rates, to apply to all water used:	
From 0 to 300 feet per month, per 100 cubic feet	$0 25
Over 3000 cubic feet per month, per 100 cubic feet	22
Fire hydrants, owned by city, per month, each	$1 00
Fire hydrants, owned by utility, per month, each	1 50

The quantity charge shall be in addition to the readiness-to-serve charge.

It is hereby further ordered, that the Peninsula Water Company file with this Commission for its approval, within thirty (30) days from the date of this order, rules and regulations to govern its relations with its consumers.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of November, 1921.

DECISION NO. 9698.

JOHN E. SEXTON,

vs.

WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, AND EL DORADO WATER COMPANY, A CORPORATION.

Case No. 1550.

Decided November 4, 1921.

WATER UTILITY—DEDICATION OF WATER—PRESENT AND FUTURE USE.—In this case it was shown that the Western States Gas and Electric Company contracted to deliver to the El Dorado Water Company 1800 miner's inches, of which 200 inches may be delivered for mining use. It is held that complainant, a miner, is entitled as a member of the public within the area to which the water in question was dedicated, to share in its use. This water may not be withheld from a present applicant in order that future consumers may be served.

W. W. McNair and *Thomas Lloyd Lennon*, for Complainant.
Chickering and Gregory, by *Evan Williams*, for Western States Gas and Electric Company.
R. W. Hawley and *B. D. Marx Greene*, for El Dorado Water Company.

MARTIN, *Commissioner*.

OPINION.

This is a proceeding brought by John E. Sexton, who owns and operates the Pacific Channel Mine at Pacific, in El Dorado County, against the Western States Gas and Electric Company (hereinafter referred to as the electric company), a public utility corporation, engaged in the business of selling gas, electricity and water, and the El Dorado Water Company (hereinafter referred to as the water company), a public utility corporation, engaged in the business of selling water for domestic, irrigation and mining purposes in El Dorado County.

The complaint alleges in effect that the water supply of defendant electric company was dedicated to mining and other uses during the years 1873 to 1876, inclusive; that the water has been used continuously since that time for public use including mining; that plaintiff's mine is located near this company's main canal, is within the area served and is of the class for which the water was dedicated; that repeated demands have been made for water to operate a mill at the mine, which demands have been refused; that the Pacific Channel Mine is a drift-gold gravel mine, and that it requires forty miner's inches of water for twenty-four hours every third day to operate the mine to advantage; that said

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defendant has sufficient unused water running at all times in its main ditch to supply plaintiff without depriving any of its consumers of water, and that more than forty miner's inches of water is permitted to waste from the canal below plaintiff's mine, which waste finds its way into the same natural channel that it would reach after being used by plaintiff.

The complaint further recites that on or about May 31, 1919, defendants herein entered into an agreement whereby the water company assumed the obligations of the electric company for service of water for mining purposes and that because of this agreement plaintiff has also applied to water company for water and was refused, wherefore plaintiff asks this Commission for an order directing one or both defendants to furnish the quantity of water applied for from the surplus waters in the canal.

The answer of the defendant electric company alleges in effect that it purchased the El Dorado ditch system about December, 1916, and furnished water to the then users until about May, 1919, when defendant sold that portion of the ditch system below the Fourteen Mile House tunnel to defendant water company, and since that date has delivered water to the water company for resale and distribution according to the contract entered into at the time of the transfer; that the use of its system is confined to the wholesale delivery of water to the water company and to the generation of hydro-electric energy, to which latter use the system has been dedicated for many years, leaving no water available for mining purposes. Defendant denies that all the water appropriated by its predecessors was dedicated to the use of mining in 1876, and that it has been used by the public continuously except the water appropriated and used through the El Dorado ditch; denies that there is any unused water at any time running through the main ditch or that any water is permitted to waste. It is alleged that any quantity of water supplied complainant would decrease the quantity furnished the water company and defendant's hydro-electric plant. It is further alleged that plaintiff has available a sufficient and independent supply of water in the mine.

The answer of the defendant water company alleges that it purchases and receives water at wholesale from defendant electric company near the Fourteen Mile House tunnel; that it owns a canal system for distributing this water below the said tunnel; that plaintiff's mine is located above the tunnel and above its distribution system, so that it is impossible to supply plaintiff with water.

Hearings in the above proceeding were held in Placerville and in San Francisco.

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The evidence shows that defendant water company does purchase its water wholesale from defendant electric company, and that it receives and distributes the water below plaintiff's mine, so that it is not possible to furnish water to plaintiff by means of any part of the system owned by the water company.

The evidence further shows that the ditch system was constructed in about 1875-6 for the purpose of providing water for hydraulic mining. Upon the cessation of this industry it became necessary to develop new uses of water. Accordingly, water was furnished for irrigation, domestic and mining purposes. Since 1907 efforts have been made to convert the system to hydro-electric uses, and several corporations have been formed for that purpose. These projects failed through inability to finance them until the property was acquired by the Western States Gas and Electric Company. This company, defendant herein, was operating a hydro-electric plant on the south fork of the American River below the town of Placerville, and after an investigation of the properties, purchased the system for the purpose of operating it as a hydro-electric property in conjunction with its original system. The intentions of this defendant caused the water users on the system to form the El Dorado County Water Users Association, and to file a complaint before this Commission to determine the obligations of the electric company to the users. The Commission's decision in the matter held that all the water controlled by the Western States Gas and Electric Company had been devoted to public use and that there is no preference on the question of public use between irrigation and hydro-electric use; that the obligation of the utility was not limited merely to the water delivered to past consumers but that it could be required to make reasonable additions to its system to provide new service; that the utility could devote water to hydro-electric purposes when service to existing consumers is provided for.

To avoid litigation and the service of water to others, the Western States Gas and Electric Company sold to the El Dorado Water Company, a company formed by the Water Users Association, that portion of the El Dorado ditch system below the Fourteen Mile House tunnel for $25,000 in bonds of the new company, and agreed to deliver to that company 40 second-feet or 1600 miner's inches of water for irrigation use and five second-feet or 200 miner's inches for mining use. The sale and service agreement were authorized by this Commission in its Decision No. 6436, dated June 25, 1919. The electric company is now selling water to the water company on a wholesale basis, according to the terms of this agreement, and the latter is the only consumer now being served with water from the El Dorado ditch.

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In support of their contention that there was no surplus water available for any other use the Western States Gas and Electric Company submitted evidence showing the maximum safe capacity of the ditch to be 1800 miner's inches which is the amount they have contracted to deliver to the El Dorado Water Company. By the terms of the contract 200 inches of water may be delivered to the El Dorado Water Company for mining uses. The evidence does not show that the water company has ever furnished any water for mining uses out of the supply available. The only water which it has ever distributed is from the 1600 inches available for agricultural uses.

The records of the deliveries of water by defendant electric company to the water company show that in 1919 the demand did not reach the limit of 1600 miner's inches available for irrigation under the contract. In 1920 the demand for 1600 miner's inches existed from June 26th to July 5th, inclusive, and August 1st to August 24th, inclusive; and in 1921 from June 21st to July 1st, inclusive. It further appears that the defendant electric company generally carries 1600 miner's inches in the canal because from an operating standpoint it is necessary to maintain that steady flow in order to meet the varying demands of the water company. When the maximum quantity is not being required by the water company the excess is spilled and finds its way to the river from which it is diverted through the power house for generation of electric power. It is apparent therefore that there is more water available through this system than is beneficially used by the El Dorado Water Company for distribution to its present consumers.

The plaintiff is entitled, as a member of the public within the area to which the water in question was dedicated, to share in its use. On the other hand, it is equally clear that these two utilities should not be permitted by their contract for the delivery of the entire capacity of the ditch to the water company to withhold the use of this water from a present applicant in order that future consumers may be served.

We do not believe that the defendant electric company would be justified in the expenditure necessary to increase the present carrying capacity of its ditch in order that water might be delivered to the plaintiff in addition to the amount already contracted to be supplied to the El Dorado Water Company. It is proper to conclude, however, that the water which plaintiff requires must be furnished out of the present available supply of the electric company as limited by the present capacity of its ditch, and must be taken out of the amount agreed to be furnished to the water company.

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The following form of order is recommended:

ORDER.

John E. Sexton having filed formal complaint with the Railroad Commission against the Western States Gas and Electric Company and the El Dorado Water Company, public utilities, hearings having been held thereon and evidence submitted and the matter being now ready for decision:

It is hereby found as a fact that the defendant Western States Gas and Electric Company has available for public use and has dedicated to the use of the public for mining and agricultural uses the amount of 1800 miner's inches of water, which it has contracted to sell and deliver to the defendant El Dorado Water Company for sale and distribution to the general public; that the plaintiff is a member of the public within the area to which the use of said water is dedicated; that the defendant El Dorado Water Company has not distributed all of the supply available to it from the defendant, Western States Gas and Electric Company, and that the supply of water thus available to the water company is sufficient to permit the delivery of water to the plaintiff in the amount of 40 miner's inches from the main ditch of the electric company without injuriously withdrawing the supply from the present consumers of the defendant El Dorado Water Company.

And basing its order upon the above findings of fact and the further findings of fact contained in the opinion preceding this order,

It is hereby ordered, that the defendant El Dorado Water Company permit the delivery, and that defendant Western States Gas and Electric Company deliver to plaintiff 40 miner's inches of water per twenty-four hours every third day, or its equivalent of 40 miner's inches for eight hours each day, at a point of delivery on its main ditch most convenient for the delivery of said water for use on plaintiff's property known as the Pacific Channel mine at Pacific in El Dorado County, California.

The amount herein required to be delivered to plaintiff shall be taken from the present supply of 18 miner's inches available for public use through the ditch of the defendant Western States Gas and Electric Company, know as the El Dorado ditch, referred to and described in the contract executed by defendants and approved by this Commission in its Decision No. 6436.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of November, 1921.

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DECISION NO. 9700.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO ELECTRIC RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE EXECUTION OF A DEED OF TRUST OR MORTGAGE AND THE ISSUE OF BONDS OF THE FACE VALUE OF FOUR MILLION SEVEN HUNDRED FORTY-EIGHT THOUSAND DOLLARS.

Application No. 1206.

Decided November 4, 1921.

Read G. Dilworth, for Applicant.

ROWELL, *Commissioner.*

FIRST SUPPLEMENTAL OPINION.

On October 6, 1914, the Commission by Decision No. 1851 authorized San Diego Electric Railway Company to issue and sell at not less than 85 per cent of their face value and accrued interest $4,497,000 of 5 per cent general first lien sinking fund gold bonds, due January 1, 1955.

The company has heretofore issued $3,920,000 of the bonds, leaving $577,000 unissued. Under the Commission's Decision No. 9564, dated September 27, 1921, the company may sell the $577,000 of bonds at any time on or before October 1, 1922, subject to the condition that the proceeds be expended only for such purposes as the Railroad Commission may authorize. In a supplemental petition filed in the above entitled matter, applicant asks permission to expend the proceeds from the sale of the $577,000 of bonds to reimburse its treasury on account of moneys expended for construction purposes from February 1, 1915, to December 31, 1920. Applicant has filed a statement in which it reports that from February 1, 1915, to December 31, 1920, it expended for and charged to road and equipment the sum of $970,223.73. While applicant refers to having made these expenditures out of its "surplus funds," the testimony of E. J. Burns shows that the company technically has had no surplus funds and that it has been possible for applicant to make the expenditures out of earnings only because the bondholders were agreeable to the postponement of the payment of interest on their bonds.

At the hearing the supplemental application was amended so as to relieve the Commission from approving the $970,223.73 of alleged construction expenditures. The propriety of a number of the items included therein is questioned both by the Commission's department of finance and accounts and the engineering department. The supplemental application, however, can be granted even though the amounts questioned by the Commission's departments are eliminated from the reported construction expenditures.

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During 1920 applicant, under authorization of the Railroad Commission, sold its power plant and power plant properties for $1,000,000, payable in $425,000 of bonds and $575,000 of 7 per cent preferred stock of San Diego Consolidated Gas and Electric Company. Upon receiving these securities, applicant sold them to the J. D. and A. B. Spreckels Securities Company for the total sum of $863,375. This money was used by applicant to reacquire first mortgage bonds at 85, and as a result of such use, applicant has purchased $1,015,000 of its first mortgage bonds. In addition, applicant has retired through sinking fund and other payments $305,000 of its first mortgage bonds, making a total of $1,320,000 of first mortgage bonds retired. There remains now outstanding $2,600,000 of first mortgage bonds.

In Exhibit "B," applicant as of September 30, 1921, reports the reproduction cost less depreciation of its property at $4,142,709.84, offset by $1,250,000 of outstanding stock, $2,600,000 of outstanding bonds, $344,103.29 in the depreciation funds and $596,015.33 current liabilities. The granting of this application will result in the substitution of the bonds for the indebtedness represented by current liabilities.

The order herein will permit of the use of the proceeds obtained from $577,000 of bonds to pay such indebtedness as may represent expenditures on capital accounts as such capital accounts are defined in the uniform system of accounts prescribed by the Railroad Commission.

I herewith submit the following form of order:

FIFTH SUPPLEMENTAL ORDER.

San Diego Electric Railway Company having applied to the Railroad Commission for permission to expend the proceeds obtained from the sale of $577,000 of its first mortgage bonds, a public hearing having been held and the Commission being of the opinion that its Decision No. 1851, dated October 6, 1914, as amended, should be modified as herein provided;

It is hereby ordered, that the order in Decision No. 1851, dated October 6, 1914, as amended, be and it is hereby modified so as to permit San Diego Electric Railway Company to use the proceeds obtained from the sale of $577,000 of its 5 per cent general first lien sinking fund gold bonds, due January 1, 1955, to reimburse its treasury and finance in whole or in part the net cost of construction expenditures incurred on or before September 30, 1921, or to pay obligations incurred on account of such expenditures.

It is hereby further ordered, that the order in Decision No. 1851, dated October 6, 1914, as amended, shall remain in full force and effect, except as modified by this fifth supplemental order.

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The foregoing first supplemental opinion and fifth supplemental order are hereby approved and ordered filed as the first supplemental opinion and fifth supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of November, 1921.

DECISION NO. 9702.

OTTO H. FETT, A. V. FOERSTER AND HENRY SHERIDAN
vs.
EMIL FIRTH AND LOS ANGELES TRUST AND SAVINGS BANK, A CORPORATION.

Case No. 1590.

IN THE MATTER OF THE APPLICATION OF EMIL FIRTH FOR AN ORDER AUTHORIZING AN INCREASE OF WATER RATES.

Application No. 7106.

Decided November 4, 1921.

WATER UTILITY—RATE OF RETURN.—It is held that where a tract is in its development stage, the investment can not be used as a basis for establishing rates. Consideration must be given the value of the service and the ability of the consumers to pay.

E. V. Rosenkranz, for Defendants and Applicant.
J. J. Denman, for Complainants and certain protestants.

BENEDICT, *Commissioner*.

OPINION.

Complaint was filed by certain consumers of water on an Emil Firth subdivision of land, contiguous to the city limits of Los Angeles and generally known as Harbor Boulevard Gardens, Tract 3064. It is alleged in effect that the defendants are a public utility; that as a prerequisite to service, contracts must be signed and service connections paid for by the consumers; that the system installed is of inferior material and that the water served is not potable and is unsanitary.

The application for an increase in rates was filed by Emil Firth and alleges that the present rates of $1 per month for 1000 cubic feet of water or less, and 10 cents per 100 cubic feet for additional quantities, do not produce sufficient revenue to equal the operating charges.

The above proceedings were combined for hearing in Los Angeles, of which all consumers were notified and given an opportunity to be heard.

It appears from the testimony that this water system was installed by Emil Firth about the year 1920 to supply a tract of some 648 lots owned by the Los Angeles Trust and Savings Bank. The system con-

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sists of a well, electrically-driven pumping plant, a 22,000-gallon reinforced concrete storage tank on a 40-foot tower, and about 5.6 miles of mains. There are at present about 25 consumers, all of whom are metered.

It was shown that the utility had discontinued the signing of contracts as a prerequisite to service and that all moneys collected from the consumers for service connections and meters had been refunded. It appears that the utility is now conforming to the Commission's requirements in these practices, as set out in its Decision No. 2879.

A report which was prepared by the State Board of Health was submitted by defendant, showing the results of an examination of samples of water drawn from the system. This report shows that the water is safe for drinking purposes, and thus disposes of the complaint regarding its quality. It appears that the odor complained of is due to stagnation of the water in the dead ends of mains, and may be prevented by frequent flushing of the mains.

Applicant asked that his rates be increased to $1.50 per month for 800 cubic feet or less, and 20 cents per 100 cubic feet for additional amounts. This was amended at the hearing to any rate the Commission might establish.

An appraisal of the system was presented by Mr. John Spencer, one of the Commission's engineers, which shows the estimated original cost to be $22,028, and estimates the replacement annuity as $483, computed by the 6 per cent sinking fund method. This report also recommended $480 as a reasonable operating expense.

Mr. Firth testified that the plant had cost $18,058 to install. This amount, however, did not include real estate and other property properly chargeable to the water system. The actual operating expenses for seventeen months amounted to $783.45, or approximately $46 per month. The revenues for twelve months amounted to $261.

It was shown at the hearing that the tract is only partially settled and in its development stage, and that the investment can not be used as a basis for establishing rates. Consideration must be given the value of the service and the ability of the consumers to pay. The rate established in the following order is comparable to the rates of other utilities operating in that vicinity, and is considered reasonable both to the consumers and the utility.

I submit the following form of order:

ORDER.

Otto H. Fett and others having made complaint in the above entitled proceeding and Emil Firth having made application for increased rates, public hearings having been held in both proceedings and the matters having been submitted:

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It is hereby found as a fact that the rates charged by said Emil Firth are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged by Emil Firth for water delivered to consumers in Tract No. 3064, Harbor Boulevard Gardens, Los Angeles County.

It is hereby further found as a fact that service conditions may be improved by providing further flushing facilities on the dead ends of mains.

And basing its order upon the foregoing findings of fact and upon the findings contained in the opinion preceding this order;

It is hereby ordered, that Emil Firth be and he is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order and thereafter charge the following rates for water supplied to residents of Tract 3064, Harbor Boulevard Gardens:

Monthly Meter Rates.

500 cubic feet or less	$1 25
500 to 1000 cubic feet, per 100 cubic feet	20
All in excess of 1000 cubic feet, per 100 cubic feet	15

Monthly Minimum Charge.

⅝ inch meter	$1 25
¾ inch meter	1 50
1 inch meter	1 75
1½ inch meter	2 00

It is hereby further ordered, that within thirty (30) days from the date of this order applicant file with this Commission, subject to its acceptance, a set of rules and regulations governing the service to its consumers in said Tract 3064, Harbor Boulevard Gardens.

It is hereby further ordered, that said defendants shall immediately install suitable valves at all dead ends of mains, in addition to present installation, and thereafter periodically flush out said mains. That in all other respects the complaint in Case No. 1590 be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of November, 1921.

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DECISION NO. 9703.

IN THE MATTER OF THE APPLICATION OF GOLDEN GATE FERRY COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE ITS CAPITAL STOCK.

Application No. 6316.

Decided November 4, 1921.

Dudley D. Sales, for Applicant.

LOVELAND, *Commissioner.*

FIRST SUPPLEMENTAL OPINION.

Golden Gate Ferry Company, in its second supplemental petition filed in the above entitled matter, asks permission to let contracts for the construction of a ferry boat, ferry slips and terminal facilities and to expend moneys obtained from the sale of stock.

By decision No. 8511, dated January 3, 1921, the Railroad Commission authorized applicant to issue and sell, at not less than par, $1,000,000 of its common capital stock. The order in Decision No. 8511 permits applicant to expend 17½ per cent of the proceeds from the sale of stock to pay organization and incorporation expenses, attorneys, engineering and brokerage fees. The remaining proceeds may be expended only as authorized by the Commission in future orders. The order further required that prior to the asking of bids from contractors, or the beginning of construction, applicant file with the Commission its final plans and specifications of its proposed ferry boats, slips, terminals and facilities.

At the hearing on the second supplemental petition, Harry E. Speas, applicant's vice president, testified that Golden Gate Ferry Company, up to October 31, 1921, had issued, or had bona fide subscriptions for $324,500 of stock.

Applicant desires to enter into a contract for the construction of a double end auto ferry boat with a Diesel electric drive. Aven J. Hanford, applicant's president, testified that in his opinion it would be advantageous to applicant to commence at once the construction of the boat because of the advancing price of ship lumber. The testimony further shows that there is a demand on the part of the company's stockholders and of the general public for this proposed auto ferry service.

Plans and specifications filed with the Commission show that the proposed vessel will be a double shaft, bow and stern screw, sawed frame auto ferry boat with two decks, capable of carrying approximately 85 automobiles and 500 passengers. The length over all of the proposed boat will be 220 feet, the breadth over planking 35 feet

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8 inches; breadth over guards 60 feet; depth moulded at side 17 feet 3 inches, and moulded at ends 17 feet.

It is proposed to equip the boat with two 500 brake horsepower Diesel engine units of 200–250 revolutions per minute, suitable for direct connection to 340 kilowatt generators and exciters. The engines are to be equipped with suitable governors so that the speed of the engines will not fluctuate more than 3 per cent from full load to no load.

Complete specifications of the boat and equipments are filed with this second supplemental petition.

Applicant reports that the boat will be capable of traveling about 12 knots an hour and that it should cover the proposed route in about eighteen or twenty minutes. It is estimated that the hull will cost from $140,000 to $150,000; the equipment $150,000 and the engineering, supervision and architectural fees $25,000, a total cost of approximately $325,000.

Testimony herein by Harry E. Speas and Aven J. Hanford shows that economies in operation should be effected by the use of electrical apparatus.

I herewith submit the following form of order:

SECOND SUPPLEMENTAL ORDER.

Golden Gate Ferry Company having applied to the Railroad Commission for permission to let a contract for the construction of a ferry boat and expend proceeds from the sale of stock, a public hearing having been held and the Commission being of the opinion that applicant's request should be granted;

It is hereby ordered, that Golden Gate Ferry Company be and it is hereby authorized to enter into a contract for the construction of a ferry boat, such boat to be built according to the plans and specifications filed with the Commission in the second supplemental petition in this proceeding.

It is hereby further ordered, that the order in Decision No. 8511, dated January 3, 1921, as amended, be and it is hereby modified so as to permit Golden Gate Ferry Company to use not exceeding $325,000 of the proceeds from the sale of the stock authorized by Decision No. 8511, dated January 3, 1921, to pay the cost of constructing the proposed boat.

It is hereby further ordered, that the order in Decision No. 8511, dated January 3, 1921, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

The foregoing first supplemental opinion and second supplemental order are hereby approved and ordered filed as the first supplemental

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opinion and second supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of November, 1921.

DECISION NO. 9704.

MARY L. BARRINGTON

vs.

CRESTMORE LAND AND WATER COMPANY.

Case No. 1621.

Decided November 4, 1921.

Lester G. King, for Complainant.
Wallace S. Woodworth, for Defendant.

BY THE COMMISSION.

OPINION.

The above entitled proceeding is a complaint against the service rendered by the Crestmore Land and Water Company, located near Bloomington, in San Bernardino County.

The complaint alleges in effect that the property now owned by complainant was purchased from the Crestmore Land and Water Company some fourteen years ago, with the understanding that the company would furnish water for domestic purposes at a reasonable rate; that defendant did for a period of about ten years furnish complainant's property with water and collected a fee for this service; that for the past three years the complainant has suffered considerable loss and inconvenience due to the fact that the main supplying her premises is without water the greater portion of the time; that defendant is in a position to supply an adequate amount of water to complainant if it so desires. Wherefore complainant asks that the Commission make an order directing defendant to furnish sufficient water to reasonably meet her needs for domestic purposes.

A public hearing was held in this matter before Examiner Williams at Los Angeles, of which all parties to this proceeding were notified and given an opportunity to appear and be heard.

The evidence shows that the water system was installed by the Crestmore Land and Water Company primarily as a domestic system in connection with the sale of its property in the "Crestmore Townsite." The water was obtained from a well by pumping and stored in an adjacent elevated steel tank. The storage capacity was later augmented by the use of a concrete reservoir located some little distance from the well.

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It appears that the tract did not prove a success as a townsite subdivision and the unsold property and the water system were acquired by Mr. Wallace S. Woodworth, defendant herein, about five years ago. Shortly after Mr. Woodworth became interested in this property he began farming a portion of it. The water system which had theretofore been essentially a domestic system was converted into an irrigation system to supply water to Mr. Woodworth's property. The storage tank was taken down, the reservoir abandoned and the pump connected directly to the mains.

Much testimony was introduced to show that previous to the time when the system was used to supply water for irrigation the complainant enjoyed good service and that the service had been intermittent subsequent to that time, making it necessary for complainant to haul water from Bloomington a greater portion of the time for the past year.

It appears from the evidence that the service to the complainant should be improved. To require the defendant to maintain good service to complainant at all times would require the expenditure of considerable money, and it is very evident the revenues would not justify this. Therefore we consider the most equitable adjustment of this matter is to require the defendant to furnish complainant with water under sufficient pressure to carry it into her house a portion of the time during each day. It also appears that it would be agreeable to complainant if water were available to her each day, when the defendant is not actually irrigating. It would seem that the most practical method of restoring service to complainant is to require defendant to restore the tank that formerly stood by the well, which if connected to the system and used as a storage tank, would insure good service to complainant when the system was not devoted to irrigation use.

ORDER.

Complaint having been made to the Railroad Commission as entitled above, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the service rendered by Wallace S. Woodworth to the complainant herein has been inadequate and that the supply of water heretofore delivered has been insufficient.

And basing its order upon the foregoing finding of fact and on the other statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that the defendant, Wallace S. Woodworth, be and he is hereby directed to restore a storage tank at the pumping plant of not less than five thousand gallon capacity, elevated to a point not less than twenty-five feet above the ground, this construction to be completed and water made available to complainant in sufficient quan-

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tities to reasonably meet her needs for domestic purposes at least twelve hours out of every twenty-four, not later than December 1, 1921, and every day thereafter.

Dated at San Francisco, California, this fourth day of November, 1921.

DECISION No. 9705.

IN THE MATTER OF THE APPLICATION OF COAST TRUCK LINE, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A FREIGHT AUTO TRUCK SERVICE BETWEEN SAN DIEGO AND LOS ANGELES BY WAY OF LONG BEACH, WILMINGTON AND SAN PEDRO.

Application No. 7160.

Decided November 4, 1921.

J. H. Bischoff, for Applicant.
Warren E. Libby, for Boulevard Express.
C. W. Byrer, for Los Angeles and San Pedro Transportation Company.
James H. Daly, for City Transfer and Storage Company, Long Beach Transfer and Warehouse Company, and Union Transfer Company.
G. R. Cleveland, for Rice Transportation Company.
H. N. Blair, for Hodge Transportation System.
R. C. Gortner and *T. J. Day*, for Pacific Electric Railway Company.
E. T. Lucey, for Atchison, Topepa and Santa Fe Railway Company.
L. N. Bradshaw, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Los Angeles on the above entitled application to operate a freight truck service between San Diego and Los Angeles via Long Beach, Wilmington, and San Pedro, one round trip daily, leaving each terminal at 3 p.m., using twelve hours en route.

Upon applicant's attorney stating at the beginning of the hearing that there was no desire to serve locally between Los Angeles and the other points in Los Angeles County mentioned in the application, but only to be authorized to detour between Los Angeles and Santa Ana on its present route, and to serve Huntington Park, Long Beach, Wilmington, and San Pedro as additional points, the Los Angeles and San Pedro Transportation Company and the Hodge Transportation System refrained from protesting and withdrew from the hearing.

The application is most vigorously protested by the Boulevard Express upon the stated ground that applicant at present has only operating rights to serve Los Angeles and Escondido via Oceanside, without authority to serve Oceanside from the north, and a separate right acquired from a different source to serve San Diego and Oceanside and four intermediate points on the coast route, and that these two operative rights can not be so joined or operated together as to authorize

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applicant to serve Los Angeles and San Diego as terminals of a through route. Even the applicant does not claim any right to serve locally between Oceanside and Los Angeles. It is urged that the real purpose of the application is to secure through operating rights between Los Angeles and San Diego.

The questions raised by the Boulevard Express are before the Commission in Case No. 1640 of *Blair* vs. *Coast Truck Line*; therefore, this opinion will be limited to an examination of the additional need for public service at the Los Angeles County points referred to.

There was no testimony submitted relating to conditions at Huntington Park or Wilmington, applicant's testimony being limited to a showing of freight moving to and from Long Beach and San Pedro, which latter point, with the harbor, has for several years been a portion of the city of Los Angeles, being connected with it by the so-called "shoestring strip."

Applicant did not present any testimony by shippers on the question. It presented a petition bearing twenty-one signatures, apparently consisting principally of business firms of San Diego, to the effect that a direct line connecting San Diego with the harbor at San Pedro and Wilmington, and also with Long Beach and Huntington Park, would be a great convenience to San Diego; and a petition signed by three Los Angeles shippers, reciting that they would have a total of 40 tons per month to ship "if the service is as proposed." It presented a third petition signed by four Long Beach hotels, expressing the opinion that a direct service from Long Beach and Huntington Park to San Diego "will be a great convenience to these cities." As the signers were not present for examination or cross examination to show whether or not the proposed rates and schedules would meet their needs, or to show under what conditions, by what authority, or upon what representation the petitions were signed, or to show upon what facts the expressions of opinion contained in the petitions were based, it is obvious that we can not accord any evidentiary force to these documents.

The remaining testimony presented was that of employees of the applicant who had made an investigation as to probable traffic. From the testimony of these witnesses, it appears that motorists traveling between Long Beach and San Diego have occasion to ship trunks and baggage by rail or truck; that many boat lines enter Los Angeles harbor which do not touch at San Diego and have occasion to ship or receive freight to or from San Diego, including apples and potatoes to San Diego from points north; that fresh fish, iced in boxes, moves between San Pedro and San Diego; that canned fish from San Diego and canned vegetables from Escondido move to San Pedro for water shipment or local consumption, principally at the naval base; that fresh

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vegetables move from San Pedro to Los Angeles and San Diego, depending upon market conditions; and that there is some movement of household furniture between Long Beach and San Diego. This testimony gives very little indication of the volume of any of this traffic, nor whether it is seasonal or desultory. It is probable from its nature that the movement of canned vegetables, at least, would be seasonal and perhaps for a limited season, and it was suggested by the representative of the express company that the movement of fresh fish in either direction was principally to supply the local demands of San Diego and the naval base at the Los Angeles harbor when the fish were not running locally at or near one point or the other. The movement of household goods in truck loads, and trunks and baggage, are, in their nature, only desultory and occasional.

It further appears from the testimony that there are eight authorized truck carriers operating between Los Angeles and Long Beach, with equipment consisting of 47 trucks and 17 trailers, with a line operating between Los Angeles and San Pedro whose equipment was not shown. One of these lines, that of City Transfer and Storage Company, operating between Los Angeles and Long Beach, has a truck leaving Long Beach at 5 p.m., two hours later than applicant's schedule, connecting with the truck of the Boulevard Express at Los Angeles and delivering freight upon the opening of business in San Diego the following morning. This permits shipment from Long Beach two hours later than by the proposed service. The through rate is composed of the sum of locals, and is higher than the rates proposed by applicant. However, a mere proposal to make a lower rate than existing rates is not sufficient to show public convenience and necessity, although it may be an element to be considered. If the matter of rates were considered controlling, it would be possible for a new carrier to enter the field and procure the bulk of the business at the lower rate, ruin the established carrier, and then ask an increase in rates sufficient to pay operating expenses and a return upon the investment. On the other hand, if the established rates are too high, shippers are always at liberty to file complaint and bring about an investigation of rates and have them reduced to a reasonable basis.

It also appeared from the testimony that the Long Beach Chamber of Commerce had caused an investigation to be made at Long Beach of the need of truck service between Long Beach, Santa Ana, and points in Orange County, from which it appears that the retail merchants stated that they had no need of the service, and the manufacturers and wholesalers stated that they had some need but that rail service was satisfactory. The occasion for the investigation was an application by W. T. Harris seeking authority to serve between Long Beach and Orange

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County points. The witness estimated that at the time of the investigation the railroads handled about 1000 pounds per day, and he gave it as his opinion that the business for San Diego County points would not exceed that amount. He found in the course of his investigation that there was some tourist baggage to be moved to San Diego County points, but the amount was not large.

The manager of the City Van and Storage Company testified that he had studied the traffic movement in and about Long Beach for five years, and he considered there was not enough traffic between Los Angeles harbor, Long Beach and San Diego to maintain or justify such service, his conclusion being based upon an investigation of the situation made by him with the expectation of applying for authority to establish the service if the facts showed a public need. The proposed application was not filed.

The Rice Transportation Company testified that its business between Long Beach and Los Angeles, originating at or destined to San Diego, amounted to only about 200 to 300 pounds per day; that it had contemplated arranging for joint tariffs and through routes to and from south and west Los Angeles beach points and other points, and had been led to make a careful investigation of traffic conditions. He estimated that all household goods and trunks moved would average about 1000 pounds per day, some 25 per cent or 30 per cent being household goods, which latter comprised only about 1 per cent of the witness' business; also that the Mesa Manufacturing Company, making breakfast room furniture, at Long Beach, stated that their shipments for all points totalled only about 1000 pounds per day.

From a statement submitted in evidence by Boulevard Express, it appears that of its entire tonnage capacity, based on a 25 per cent overload above manufacturer's rating of truck capacity, and based on five months' experience, ending October 1, 1921, 91.65 per cent was used southbound and 31.28 per cent northbound, taking the average for the five months' period.

We conclude from a careful analysis of the testimony that there is no public necessity or demand for the service, such as the statute requires before authority can be granted, and that the application must be denied.

ORDER.

A public hearing having been held on the above entitled application, the matter being submitted and now ready for decision:

The Railroad Commission hereby declares that public convenience and necessity do not require the operation by Coast Truck Line of a motor truck service between Los Angeles and any points south of Santa Ana,

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serving Huntington Park, Long Beach, Wilmington, and San Pedro, or either or any of them.

It is hereby ordered, that the application be and it is hereby denied.

Dated at San Francisco, California, this fourth day of November, 1921.

DECISION NO. 9709.

IN THE MATTER OF THE APPLICATION OF M. F. REAGAN FOR AN ORDER AUTHORIZING INCREASE IN WATER RATES.

Application No. 6948.

Decided November 4, 1921.

WATER UTILITY—FULL RETURN.—It is held that in the present case where the system was designed to serve a real estate tract which has never fully developed and where the system is at present overbuilt, applicant can not reasonably expect a full return on the investment at this time.

M. F. Reagan, in propria persona.

BY THE COMMISSION.

OPINION.

The applicant herein owns and operates a public utility water system, supplying consumers with water for domestic purposes in the unincorporated town of Los Alamitos, Orange County, California.

In this proceeding applicant asks authority to increase the rates for service, alleging in effect that the revenue received from the sale of water under the present rates do not equal operating expenses.

A public hearing was held before Examiner Williams at Los Angeles, of which applicant's consumers were notified and given an opportunity to appear and be heard.

The testimony shows that this water system was installed some twenty years ago by the Bixby Land Company in connection with the sale of real estate in the town of Los Alamitos. Mr. Reagan came into possession of this system about eight years ago and has operated it independent of the sale of real estate since that time. The water is obtained from two wells by pumping and is distributed from a 10,000 gallon tank to the consumers.

Mr. J. G. Hunter, one of the Commission's hydraulic engineers, made a field investigation and submitted a report and appraisal of the system showing the estimated original cost of the used and useful properties to be $7,149. The replacement fund computed by the sinking fund method at 6 per cent amounted to $195. The reasonable annual maintenance and operation expense of the system was estimated to be $1,006.

At present there are sixty-nine (69) consumers being supplied from this water system, the greater portion of whom are Mexicans employed

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in the sugar beet industry. There is a considerable variation in the use of water throughout the year dependent upon the number of men employed in the sugar factory and beet fields.

The present rate in effect is $1 or $1.25 per month dependent upon the use, with two special services, one $1.50 per month for supplying water for ten head of horses, and the other $2 per month for the school house. All the services are on a flat rate.

The operating revenues for two years are shown as follows:

For the year 1920	$759 00
January 1, 1921, to August 31, 1921 (8 months)	576 00
September 1, 1920, to August 31, 1921	848 00

Applicant testified that he plans to serve the Southern Pacific Company with water for their engines, which will materially increase his revenues.

This service will be on a measured basis and as he expects to meter his other consumers applicant asked at the hearing that in addition to the flat rate a measured rate be also established. This rate will be provided for in the order following this opinion.

The evidence shows that the system was designed to serve a real estate tract which has never fully developed and for the present use is overbuilt. For that reason applicant can not reasonably expect a rate that will provide a full return on the investment at this time.

However, it is apparent that this is a case in which an increase in rates should be granted and the rate schedule established in the following order is designed to return to applicant maintenance and operation expenses, replacement fund and some interest on the investment.

ORDER.

M. F. Reagan having made application to the Railroad Commission, as entitled above, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the rates heretofore in effect in so far as they differ from the rates herein established, are unjust and unremunerative, and that the rates herein established are just and reasonable rates.

And basing its order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that M. F. Reagan be and is hereby authorized and directed to file with the Railroad Commission of the State of California, within twenty (20) days of the date of this order, the following

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schedule of rates, said rates to be charged for all water delivered to consumers on and after December 1, 1921:

FLAT RATES.

	Per month
For every tenement or dwelling house of 5 rooms or less, one toilet, one bath, one lot not over 50-foot frontage	$1 50
Each additional room	10
Each additional toilet, bath or urinal	25
Horses or cows, each	25
Each additional horse or cow	15
Automobiles, each	25
Small stores or shop	1 00
Large stores, warehouses or meat markets	1 50
Soft drink parlors or bakeries	2 00
Public halls, or billard parlors with not more than one toilet and one urinal	1 50
Each additional toilet or urinal	25
Drug store without soda fountain	1 00
Drug store with soda fountain	2 50
Barber shop, one chair	1 50
Each additional chair	50
Public bath, one tub	2 00
Each additional tub	1 00
Water for irrigation, not included in the above schedule, per square yard	005

SCHEDULE OF METER RATES.

(Domestic and Commercial.)

Size of meter	Minimum monthly charge
⅝ inch	$1 25
¾ inch	1 50
1 inch	2 00
1½ inch	3 00
2 inch	4 00
3 inch	5 00
4 inch	6 00

Monthly meter rate:

From 0 to 500 cubic feet	25 cents per 100 cubic feet
500 to 1000 cubic feet	20 cents per 100 cubic feet
1000 to 5000 cubic feet	18 cents per 100 cubic feet
All over 5000 cubic feet	15 cents per 100 cubic feet

Dated at San Francisco, California, this fourth day of November, 1921.

DECISION NO. 9715.

IN THE MATTER OF THE APPLICATION OF SANTA MONICA BAY HOME TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE SALE OF FIVE THOUSAND DOLLARS PAR VALUE OF FIVE PER CENT FIRST MORTGAGE BONDS AND ONE HUNDRED FIFTY SHARES OF ITS PREFERRED STOCK.

Application No. 7198.

Decided November 4, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 9637, dated October 26, 1921, authorized Santa Monica Bay Home Telephone Com-

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pany to issue $5,000 of its first mortgage bonds, $15,000 of its preferred stock and a $12,500 6 per cent note payable on or before three years after date; and

Whereas, Condition "2" of the order in Decision No. 9637 provides that the authority therein granted will not become effective until the Commission, by supplemental order, has authorized applicant to execute a mortgage securing the payment of the $12,500 note; and

Whereas, Santa Monica Bay Home Telephone Company on November 2, 1921, filed with the Railroad Commission a copy of a proposed mortgage securing the payment of a 6 per cent note for $12,500, payable in three equal annual installments of $4,166.67;

And the Railroad Commission being of the opinion that applicant should be permitted to execute a mortgage substantially in the same form as the mortgage filed with the Commission on November 2, 1921;

It is hereby ordered, that Santa Monica Bay Home Telephone Company be and it is hereby authorized to execute a mortgage substantially in the same form as that filed with the Railroad Commission in this proceeding on November 2, 1921; provided

That the authority herein granted to execute a mortgage is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

It is hereby further ordered, that the order in Decision No. 9637, dated October 26, 1921, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this fourth day of November, 1921.

DECISION NO. 9716.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE NECESSITY FOR ADDITIONS, EXTENSIONS, IMPROVEMENTS TO, OR CHANGES IN, THE EXISTING PLANT, EQUIPMENT AND FACILITIES OF THE LAKE HEMET WATER COMPANY TO SECURE ADEQUATE SERVICE.

Case No. 1595.

Decided November 4, 1921.

Hunsaker, Britt and Cosgrove, by *T. B. Cosgrove,* and *J. M. Clayton,* for Lake Hemet Water Company.

Henry Goodcell, of San Bernardino, and *W. G. Irving,* of Riverside, by *Fred L. Hamlin,* for the Consumers.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission, in its Decision No. 9297, dated July 27, 1921, required the Lake Hemet Water Company to increase its supply

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of water at least 150 miner's inches by means of cleaning certain old wells and drilling new ones if necessary.

It appears the old wells were cleaned as directed, but as the irrigation season was nearing the end and the company, realizing that it had sufficient water to satisfy any demands that might be made on it, asked that the Commission's order in Decision No. 9279 be modified so that it would not be put to the unnecessary expense of further development.

A public hearing was held in Los Angeles on October 14, at which all interested parties were notified and given an opportunity to appear and object to a modification of the order above referred to.

No objection having been made at the hearing, the Commission is of the opinion that the Lake Hemet Water Company should be relieved of making any further development at the present time.

It is hereby ordered, that that portion of the order in Commission's Decision No. 9279 remaining unfulfilled is hereby rescinded and that the Lake Hemet Water Company is relieved of any further development of its water supply at the present time.

Dated at San Francisco, California, this fourth day of November, 1921.

DECISION No. 9717.

IN THE MATTER OF THE REORGANIZATION OF NORTHERN ELECTRIC RAILWAY COMPANY, A CORPORATION, NORTHERN ELECTRIC COMPANY, A CORPORATION, NORTHERN ELECTRIC RAILWAY COMPANY—MARYSVILLE AND COLUSA BRANCH—A CORPORATION, AND SACRAMENTO AND WOODLAND RAILROAD COMPANY, A CORPORATION, AND OF THE APPLICATION FOR AUTHORITY TO TRANSFER THE PROPERTIES OF THE LAST-MENTIONED CORPORATIONS TO A NEW CORPORATION, AND FOR PERMISSION TO ISSUE STOCK AND BONDS OF THE SAID NEW CORPORATION.

Application No. 1933.

Decided November 4, 1921.

BY THE COMMISSION.

NINTH SUPPLEMENTAL ORDER.

Sacramento Northern Railroad reports that it has on hand $10,170.69 realized from Class "A" bonds. The order of the Commission authorizing the issue of Class "A" bonds does not permit the company to expend this money except for such purposes as may be authorized by the Commission. Applicant asks permission to use the money to pay in part construction expenditures incurred prior to December 30, 1920. It reports its net construction expenditures uncapitalized up to December 30, 1920, at $309,771.09. These expenditures are now being checked and investigated by the Commission's engineering department and by

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its department of finance and accounts. The examination and investigation by the Commission's departments have proceeded far enough to grant applicant's request; therefore

It is hereby ordered, that Sacramento Northern Railroad be and it is hereby authorized to use $10,170.67 of Class "A" bond money to pay in part for the construction of improvements, additions and betterments referred to in the supplemental petition filed in the above entitled matter on July 26, 1921.

It is hereby further ordered, that the order in Decision No. 5432, as amended, dated May 25, 1918, shall remain in full force and effect, except as modified by this ninth supplemental order.

Dated at San Francisco, California, this fourth day of November, 1921.

DECISION No. 9721.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF BONDS.

Application No. 7245.

Decided November 5, 1921.

SECURITIES, ISSUE OF—MARKET CONDITIONS.—The Commission held that in approving the price at which a bond issue may be sold, it should be governed by the market conditions as they exist at the time it passes on an issue of securities. The present issue of $1,000,000 first and refunding 7 per cent bonds was authorized to be sold at not less than 95 per cent net and accrued interest, without the payment of a commission, brokerage fee or other charge. Applicant had on September 26 entered into a contract for the sale of bonds at 93½ per cent. The Commission held that owing to general improvement in the bond market, it was not proper to authorize this issue of bonds under the conditions as they existed on September 26.

O'Melveney, Milliken and Tuller, by *Paul Fussell,* for Applicant.

ROWELL, *Commissioner.*

OPINION.

Southern California Gas Company asks permission to issue and pledge with Union Bank and Trust Company, trustee, under its first and refunding mortgage $1,000,000 of first mortgage bonds and to issue and sell at not less than 93½ per cent of their face value and accrued interest $1,000,000 of first and refunding mortgage 7 per cent bonds due March 1, 1951.

Applicant has an authorized stock issue of $10,000,000, divided into $4,000,000 of preferred and $6,000,000 of common. All of the common and $875,000 of the preferred is outstanding. Applicant reports $4,566,000 of its first mortgage and $1,865,000 of its first and refunding mortgage bonds, or a total of $6,431,000, of bonds outstanding. In

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addition, applicant reports current liabilities and accruals of $1,213,751.26, consisting of the following:

Notes payable		$260,448 34
Accounts payable:		
Audited vouchers	$300,766 64	
Unvouchered invoices	109,843 40	
Pay rolls	52,890 86	
Purchase contracts	24,220 00	
Deposits and prepayments	290,239 52	
		777,960 42
Accruals		175,342 50
Total		$1,213,751 26

The record shows that applicant on July 1, 1920, paid a $20,000 note which it assumed at the time it acquired the properties of Economic Gas Company. The $20,000 note was secured by a mortgage which constituted an underlying lien on applicant's properties for the payment of which note $20,000 of applicant's first mortgage bonds had been reserved.

At the time applicant acquired the properties of Riverside Light and Fuel Company, it assumed the payment of that company's bonded indebtedness. On December 31, 1920, $30,000 of Riverside Light and Fuel Company bonds, due September 1, 1923, were outstanding. These bonds are now callable. The record shows that applicant has acquired $18,500 of the $30,000 of bonds at a cost of $18,000. There are now outstanding in the hands of the public $11,500 of Riverside Light and Fuel Company bonds. In order to obtain a release and reconveyances of the Riverside Light and Fuel Company properties, applicant has deposited with the Title Insurance and Trust Company $13,000 of 4¾ per cent Victory Loan Bonds. Through the deposit of the Victory Loan Bonds, the mortgage securing the payment of the bonds of Riverside Light and Fuel Company has been released. It appears that $30,000 of applicant's first mortgage bonds were reserved to refund the $30,000 of Riverside Light and Fuel Company bonds. Applicant now asks permission to deposit with the trustee under its first and refunding mortgage the $50,000 of first mortgage bonds heretofore reserved to pay or refund the Economic Gas Company note and the bonds of the Riverside Light and Fuel Company. In addition, applicant asks permission to deposit with the trustee under its first and refunding mortgage $950,000 of its first mortgage bonds, such bonds to be issued against actual or estimated construction expenditures. None of the first mortgage bonds deposited with the trustee will be sold.

Applicant, however, does ask permission to issue and sell $1,000,000 of its first and refunding mortgage 7 per cent bonds due March 1, 1951. In Schedule "A" filed in this proceeding, it reports its construction expenditures to August 31, 1921, against which no bonds

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have been issued, at $658,086.15. Under its first and refunding mortgage the trustee is authorized to authenticate bonds equal in amount to 75 per cent of the cost of new construction, improvements or betterments, provided the net earnings of the company for twelve months out of the preceding fourteen months shall have been not less than an amount sufficient to show at least one and three-fourths times the interest on all bonds then outstanding and in addition the interest on the bonds which the trustee is asked to authenticate. Seventy-five per cent of the $658,086.15 amounts to approximately $493,000. The remainder of the $1,000,000 of bonds, namely, $507,000, applicant proposes to sell and to deposit the proceeds with the trustee, and from time to time withdraw such proceeds as it proceeds with its construction program. Testimony has been introduced showing that applicant has construction work in progress which will require $670,160.69 to complete. Applicant intends to pay in part for this construction work through the withdrawal of cash obtained from the sale of $507,000 of first and refunding bonds.

Applicant asks permission to sell the $1,000,000 of first and refunding bonds at 93½ per cent of their face value plus accrued interest. The record shows that on September 26, 1921, it entered into a contract for the sale of the bonds at the price mentioned subject to the condition that their issue be authorized by the Railroad Commission. This application was not filed until October 10. A hearing was had on October 15 and the matter finally submitted on October 28. During the interim there has been a general improvement in the bond market. I do not believe that it is proper for the Commission to authorize this issue of bonds under the conditions as they existed on September 26. I am of the opinion that the Commission should be governed by the market conditions as they exist at the time it passes on an issue of securities. Under present market conditions, I do not believe that applicant should sell the bonds covered by this application for less than 95 per cent net and accrued interest, without the payment of any commission or brokerage fee of any kind whatsoever.

I herewith submit the following form of order:

ORDER.

Southern California Gas Company having applied to the Railroad Commission for permission to issue, sell and pledge bonds as recited in the foregoing opinion, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

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It is hereby ordered, that Southern California Gas Company be and it is hereby authorized to issue and deposit with the trustee under its first and refunding mortgage $1,000,000 of its first mortgage 6 per cent bonds, due November 1, 1950, and to issue $1,000,000 of its first and refunding mortgage 7 per cent bonds due March 1, 1951.

The authority herein granted is subject to the following conditions:

1. The $1,000,000 of first and refunding bonds herein authorized to be issued shall be sold by applicant, for cash, at not less than 95 per cent net and accrued interest and without the payment of a commission brokerage fee or other charge.

2. The proceeds obtained from the sale of $493,000 of first and refunding bonds may be used by applicant to pay current indebtedness incurred in connection with the construction of the additions and betterments described in Exhibit "A" filed in this proceeding. The proceeds from the sale of $507,000 of the first and refunding bonds shall be deposited with the trustee and expended for such purposes as the Railroad Commission may hereafter authorize.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed in section 57 of the Public Utilities Act, which fee amounts to $1,000.

4. Southern California Gas Company shall keep such record of the issue, deposit and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before December 31, 1921.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of November, 1921.

DECISION NO. 9722.

IN THE MATTER OF THE APPLICATION OF EL SEGUNDO WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING INCREASE IN RATES FOR WATER SOLD AND DELIVERED THROUGH ITS SYSTEM.

Application No. 6840.

Decided November 5, 1921.

WATER UTILITY—OVERBUILT SYSTEM—FULL RETURN.—Held that where a system was originally installed to promote the sale of real estate and is largely over-

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built, it would be unfair to present consumers to burden them with the entire amount of annual charges under normal conditions.

Robert M. Clarke, for Applicant.
Clyde Woodworth, for Protestants.

BENEDICT, *Commissioner*.

OPINION.

El Segundo Water Company, applicant in the above entitled proceeding, is a public utility supplying water for domestic and irrigation purposes to consumers in and in the vicinity of El Segundo, Los Angeles County, California.

Applicant alleges in effect that the revenue produced by the present schedule of rates is not sufficient to yield any return upon its investment.

A public hearing was held in Los Angeles, of which all consumers were notified and given an opportunity to be present and be heard.

The rates now in effect were established by the Railroad Commission in Decision No. 8028, in Application No. 4743, dated August 27, 1920. In that proceeding the Commission found the estimated original cost of the utility's properties as of April 1, 1920, to be $61,094, and a proper replacement annuity, computed by the 6 per cent sinking fund method, to be $1,477.

At the hearing in the present proceeding Mr. F. H. Van Hoesen, one of the Commission's engineers, submitted a report covering the results of a field and office examination of applicant's properties. This report shows the estimated original cost of the useful property, as of July 1, 1921, to be $79,291. This sum is obtained by adding to the estimate of $61,094, quoted above, the actual net investment between the dates April 1, 1920, and July 1, 1921, amounting to $18,197. The proper replacement annuity applying to the total investment, computed by the 6 per cent sinking fund method, is shown as $1,972. After presenting an analysis of the maintenance and operation expenses for the year 1920 and for the first six months of 1921, Mr. Van Hoesen recommends the sum of $8,315 as a reasonable allowance for these expenses for 1921.

Applicant states that the cost of maintenance and operation for 1920 amounted to $13,060.93. It is found that included in this figure is $3,438.07 for depreciation and other sums for interest and donations, which items are not properly chargeable to this account. Making the proper deductions, this charge is reduced to $9,389.36, which is still greater than the estimate submitted by the Commission's engineer. Upon full consideration of the electric power rate applicable to this system, and other evidence submitted, I am of the opinion that $8,815 is a reasonable allowance for the annual maintenance and operating expenses of this utility.

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The following is a summary of the estimated annual charges, under normal conditions, as indicated above:

Return upon $79,291 at 8 per cent	$6,343 00
Replacement annuity	1,972 00
Maintenance and operating expense	8,815 00
Total	$17,130 00

The total operating revenue received during 1920 was $8,581.82, but this does not reflect the true amount which will be secured under the present schedule of rates which became effective on September 1, 1920. The Commission's engineer shows an estimate of the operating revenue for 1921 under the new schedule amounting to $8,800. It is therefore apparent that the present rates will not produce the annual charges. The evidence shows, however, that the system was originally installed to promote the sale of real estate and is largely overbuilt, and it would be unfair to the present consumers to burden them with the entire amount of the annual charges set forth above. The schedule of rates set out in the accompanying order is designed to yield sufficient revenue to cover maintenance and operating expenses, depreciation annuity and some return upon the investment.

I submit the following form of order:

ORDER.

El Segundo Water Company having made application in the above entitled proceeding, a public hearing having been held thereon and the matter having been submitted:

It is hereby found as a fact that the rates now charged by the El Segundo Water Company for water delivered to its consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for such service.

And basing its order upon the foregoing finding of fact and upon the findings contained in the opinion preceding this order;

It is hereby ordered, that El Segundo Water Company be and it is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order the following schedule of rates to be charged for water delivered to its consumers on and after December 1, 1921:

Monthly Minimum Charges.

For ⅝ inch by ¾ inch meter	$1 20
For ¾ inch meter	1 50
For 1 inch meter	2 00
For 1½ inch meter	2 50
For 2 inch meter	3 00
For 3 inch meter	4 00
For 4 inch meter	5 00

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Monthly Meter Rates.

For use from 0 to 400 cubic feet, per 100 cubic feet	$0 30
From 400 to 1000 cubic feet, per 100 cubic feet	25
From 1000 to 5000 cubic feet, per 100 cubic feet	20
All in excess of 5000 cubic feet, per 100 cubic feet	15

Monthly Fire Hydrant Rate.

Fire hydrants, 2½ inch opening, each	$0 50

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of November, 1921.

DECISION No. 9723.

IN THE MATTER OF THE APPLICATION OF OLIVE MILLING COMPANY, A CORPORATION, FOR AUTHORITY TO INCREASE RATES.

Application No. 6768.

Decided November 5, 1921.

WATER UTILITY—SPARSELY SETTLED AREA—OVERBUILT SYSTEM—FULL RETURN.—Where a distribution system covers a large area which is sparsely settled it is held unfair to require present consumers to pay rates sufficient to yield a full return upon the entire cost of an overbuilt system.

Head and Rutan, by *G. K. Scorel*, for Applicant.
Scarborough, Forgy and Reinhaus, by *H. G. Forgy*, for Consumers.

BENEDICT, *Commissioner*.

OPINION.

Olive Milling Company, applicant herein, operates a public utility water plant for the purpose of supplying water for domestic purposes in Olive, Orange County, and vicinity. In this proceeding it is alleged by applicant that the revenue received from its consumers at the present schedule of rates is not sufficient to cover operating expenses, depreciation and interest upon the money invested.

A public hearing was held in this matter at Olive before Commissioner Benedict, of which all consumers were notified and given an opportunity to appear and be heard.

The Olive Milling Company was incorporated in May, 1887, primarily for the purpose of milling flour and grain. A water system was installed to furnish water for the mill and afterward was extended to supply consumers in the townsite of Olive. Water is pumped from a well into a concrete distributing reservoir situated on a high point of ground overlooking the town.

Applicant did not present an appraisal of its property.

Mr. F. H. Van Hoesen, one of the Commission's engineers, presented a report covering the results of a field investigation, an appraisal of the property and a study of the cost of maintenance and operation.

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His appraisal shows an estimated original cost of the system of $10,558 and a replacement annuity of $153, computed by the 6 per cent sinking fund method. This report also recommends the sum of $1,348 as an estimate of reasonable annual cost of maintaining and operating the system. These estimates were not questioned at the hearing and appear fair and reasonable.

The following is a summary of the annual charges as indicated above:

Return on $10,558 at 8 per cent	$845 00
Replacement annuity	153 00
Maintenance and operation expense	1,348 00
Total estimated annual charges	$2,346 00

The operating revenue from this system for the year ending April 1, 1921, was $1,830.75, of which amount some $800 was received from an oil well which was operated near Olive, but which has since been abandoned. It does not appear that there is reason to expect any notable increase in business in the near future. It would appear that applicant is entitled to an increase in rates.

However, the evidence shows that the distribution system covers a large area which is very sparsely settled and it would be unfair to applicant's present consumers to require them to pay rates sufficient to yield a full return upon the entire cost of this overbuilt system.

The schedule of rates set out in the following order is designed to return to applicant maintenance and operating expense, replacement annuity, and under the circumstances a fair amount to apply as return on the investment.

ORDER.

Olive Milling Company having made application for authority to increase the rates for water served in and in the vicinity of Olive, Orange County, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the rates and charges of the Olive Milling Company, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates herein established are just and reasonable rates to be charged for the service rendered.

And basing its order on the foregoing findings of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Olive Milling Company be and it is hereby authorized and directed to file with the Railroad Commission within twenty (20) days of the date of this order, the following schedule of

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rates, to be charged for all water delivered to its consumers on and after December 1, 1921:

Monthly Meter Rates.

For use from 0 to 500 cubic feet, per 100 cubic feet	$0 30
From 500 to 1000 cubic feet, per 100 cubic feet	25
All in excess of 1000 cubic feet, per 100 cubic feet	15

Monthly Minimum Rates.

For ⅝ inch by ¾ inch meter	$1 50
For ¾ inch meter	1 75
For 1 inch meter	2 00
For 1½ inch meter	2 50
For 2 inch meter	3 00

It is hereby further ordered, that the Olive Milling Company be and it is hereby directed to file with the Railroad Commission within thirty (30) days from the date of this order, rules and regulations governing its relations with its consumers.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of November, 1921.

DECISION No. 9724.

IN THE MATTER OF THE APPLICATION OF GRANITE ROCK WATER COMPANY FOR PERMISSION TO ESTABLISH A REVISED SCHEDULE OF RATES FOR WATER SERVICE.

Application No. 7008.

Decided November 8, 1921.

WATER UTILITY—OVERBUILT SYSTEM—FULL RETURN.—When a system is overbuilt rates based on the estimated annual charges, reasonable under normal conditions, would be greater than the service is reasonably worth and too great a burden on the consumers.

C. B. Smith, for Applicant.
M. E. Levy, for Contestants.

MARTIN, *Commissioner.*

OPINION.

Granite Rock Water Company, applicant herein, is a public utility water company, engaged in furnishing water for domestic and industrial purposes in Granada, Marine View, Marine View Beach, Marine View Civic Center, Riviera and Moss Beach, San Mateo County, California.

Applicant alleges that it has not heretofore operated as a public utility but has furnished water for domestic purposes to some sixty consumers free of charge or at rates arbitrarily established; wherefore applicant asks that the Railroad Commission make its order authorizing applicant to establish rates.

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A public hearing was held in the present proceeding at Moss Beach, San Mateo County, of which all of applicant's consumers were duly notified and given an opportunity to appear and be heard.

The evidence shows that this system is a consolidation of four water plants formerly known as the Moss Beach Realty, Marine View, Granada, and Moss Beach. The plants were installed to provide a water supply for various real estate subdivisions and were formerly operated independently. The properties were acquired by applicant at various times and at a nominal cost. They are now operated as one system, except the Granada plant, which is a separate unit because of its being located apart from the other systems.

Water for the Granada system is obtained by diversion from McMahon Gulch, and the supply for the other plants is purchased from the Montara Water Works. Both of these services provide a gravity supply. Water is also pumped from a spring when the gravity supply becomes inadequate.

There are approximately 123 consumers served by the consolidated system of whom 30 are metered.

It was claimed at the hearing, by the people of Granada, that when their lots were purchased promise of free water was made to them by the selling company, but no further evidence was presented to sustain this claim. As the Granada system has been transferred to, and is now a part of, the Granite Rock Water Company, it appears reasonable that the consumers in this section should be charged the same rates for water as consumers on other parts of the system.

No appraisal of the property was presented by applicant, but Mr. D. H. Harroun, one of the Commission's engineers, presented a report covering the results of a field investigation, an appraisal of the property and a study of the cost of maintenance and operation. His appraisal shows an estimated original cost of the physical properties of the system of $20,871, and recommends $238 as a proper replacement annuity, computed by the 6 per cent sinking fund method. This report also recommends the sum of $1,639 as a fair estimate of the future annual cost of maintaining and operating this system. These estimates were not questioned at the hearing, and appear reasonable.

The following is a summary of the annual charges as indicated above:

Return on operating capital at 8 per cent	$1,670 00
Replacement annuity, 6 per cent sinking fund	238 00
Maintenance and operation cost	1,639 00
Total estimated annual charges	$3,547 00

The total revenue from this system for the year 1920 was $632, and there is no reason to expect any decided increase in business in the near

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future. It would appear therefore that authority to increase the rates should be granted; however, the system is overbuilt, there being approximately 429 feet of distribution mains per service, and rates based on the estimated annual charges of $3,547 as shown above, would appear to be greater than the service is reasonably worth, and too great a burden on the consumer. Therefore the rates herein established are designed to produce annually a sum sufficient to meet maintenance and operating expenses, replacement annuity and some return upon the actual investment.

I submit the following form of order:

ORDER.

Granite Rock Water Company having applied to the Railroad Commission for the establishment of rates to be charged by it for water service in Granada, Marine View, Marine View Beach, Marine View Civic Center, Riviera and Moss Beach, San Mateo County, California, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the rates and charges of the Granite Rock Water Company, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates and charges herein established are just and reasonable rates.

And basing its order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, by the Railroad Commission of the State of California, that the Granite Rock Water Company be and it is hereby authorized to file with this Commission within twenty (20) days of the date of this order the following rates, to be charged for all service rendered subsequent to November 30, 1921:

Flat Rates.

Minimum annual charge for full year, payable in advance	$18 00
Minimum charge, payable in advance, entitling consumer to water for six months	12 00
For each additional month	2 00

Meter Rates.

Minimum charge, payable in advance, entitling consumer to 300 cubic feet of water per month for six months	$12 00
Each additional month	1 00
Over 300 cubic feet per month, per 100 cubic feet	30

It is hereby further ordered, that Granite Rock Water Company file with this Commission for its approval, within thirty (30) days from the date of this order, rules and regulations to govern its relations with its consumers.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of November, 1921.

DECISION NO. 9725.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF CONTRA COSTA GAS COMPANY, ON THE COMMISSION'S OWN MOTION.

Case No. 1653.

Decided November 8, 1921.

INDUSTRIAL DEPRESSION—FULL RETURN.—It is held that under conditions of decreasing sales and industrial depression in some of the communities served, some reduction in rates is necessary in order that service may be continued without a material loss of business.

SERVICE—PROFITS.—It is held that the company's profits have not been equal to a full return in the past, partly due to poor service conditions.

Leo H. Sussman, for Contra Costa Gas Company.
R. M. Wolfe, City Attorney, for Pittsburg.
A. F. Bray, City Attorney, for Martinez.
B. D. Marx Greene, City Attorney, for Antioch.
H. S. Ormsby, for Crockett and Valona.

BENEDICT, *Commissioner*.

OPINION.

This is a formal investigation of the rates, service and operations of the Contra Costa Gas Company instituted by the Commission upon its own motion.

The Contra Costa Gas Company is a utility engaged in the manufacture, distribution and sale of artificial gas in the incorporated cities and towns of Antioch, Concord, Martinez and Pittsburg and the town of Crockett and certain contiguous territory in Contra Costa County. The present rates for gas, effective April 20, 1921, were established by Decision No. 8755. The price of fuel oil to Contra Costa Gas Company at that time was $2.24 per barrel. This has been reduced to $1.64 per barrel. Such a decrease in the cost of oil could reasonably be expected to lessen the company's expenses sufficient to make possible a lowering in rates.

Certain irregularities in the company's operations in the town of Antioch have caused complaints which apparently could not be adjusted informally. The matter of both service and rates have therefore been made the subject of consideration in this proceeding.

Hearings were held on September 12, 1921, in Pittsburg and Antioch. These hearings were adjourned until October 13, 1921, in San Francisco, at which time the taking of evidence was completed and the mat-

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ter submitted for decision. The company presented data and evidence relative to its service, operations and expenses. The Commission's engineers have made reports upon their investigations of the service and operations.

The capital investment in physical property of the Contra Costa Gas Company has been made entirely during and under the jurisdiction of the Commission. Analysis of the investment has been made and it is found to be reasonable. The capital invested, together with allowance for materials and supplies and working cash capital for the year ending June 30, 1922, is as follows:

RATE BASE.

Average fixed capital for year ending June 30, 1922	$343,700 00
Materials and supplies (including oil)	10,400 00
Working cash capital	8,400 00
Rate base	$362,500 00

The estimate of operating expenses submitted by the company for the year ending June 30, 1922, has, for the purpose of fixing rates, been modified in a few items. Analysis of the actual expenses of the past few years and the evidence submitted in this case indicate that the following estimate of expenses under present costs are fair and reasonable applied to the operation of the company for the year period ending June 30, 1922:

OPERATING EXPENSES.

For year ending June 30, 1922.

Production—		
Oil	$31,560 00	
Operation	16,000 00	
Repairs	4,500 00	$52,060 00
Transmission—		
Operation	$2,100 00	
Repairs	1,500 00	3,600 00
Distribution—		
Operation	$6,500 00	
Repairs	3,000 00	9,500 00
Commercial expense		13,000 00
General and miscellaneous office expense		4,000 00
Total operating expense		$82,160 00

The estimated operating cost of service exclusive of return on investment has been estimated as follows:

TOTAL OPERATING COST OF SERVICE.

For year ending June 30, 1922.

Operating expenses	$82,160 00
Depreciation	9,050 00
Taxes	13,900 00
Uncollectible accounts	1,000 00
Total	$106,110 00

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It is not believed that under the present conditions of decreasing sales and industrial depression in some of the communities served by it that the Contra Costa Gas Company can expect to receive a full return upon its investment. Evidence shows a tendency to curtail use of gas under present rates, which are considered by the consumers as excessive. Contra Costa Gas Company has invested its money in the enterprise and is entitled to a fair return if it is possible to earn the same and still sell its service at a reasonable rate to its patrons. The company's profits have not been equal to a full return in the past, partly due to poor service conditions. It is apparent, however, that under present conditions some reduction in rates is necessary in order that the service may be continued without a material loss of business.

The present rates have yielded, during the short time that they have been effective, $2.32 per 1000 cubic feet sold. It is probable that this is slightly higher than would be realized as an average over an entire twelve months period. The rates are herein reduced to an average of $2.18 per 1000 cubic feet, which should yield upon an estimated sale of 61,000,000 cubic feet per annum under efficient operations and with good service a return of approximately 7.4 per cent on the company's investment. This return must be accepted until better conditions exist. A form of rate which may be adjusted by supplemental order of the Commission to correct for changes in the price of oil without a formal hearing has been adopted in many other proceedings and found advisable in this case. For this purpose a variation of 3 cents per 1000 cubic feet of gas sold for each ten-cent variation in the price of oil is found reasonable.

The service matters which were considered in this proceeding have been adjusted by the company. During the progress of the investigation it was recommended that certain refunds be made in Antioch, where irregular meter readings have been made. The company has made these refunds voluntarily. It was also found that there still existed several minor violations of the Commission's service standards. These, however, we believe will be and are being corrected by the present organization.

I recommend the following form of order:

ORDER.

This Commission having instituted an investigation on its own motion into the gas rates, service and operations of Contra Costa Gas Company, an investigation having been made, hearings having been held and the matter submitted:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in Decision No. 8755 should be modified to conform with the schedules herein set forth, and that the rates herein set forth are,

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under present conditions, just and reasonable rates to be charged for gas service by Contra Costa Gas Company.

Basing its order on the foregoing findings of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Contra Costa Gas Company charge and collect for gas served by it in the various communities for the service as specified, the following schedules of rates based on all regular meter readings taken on and after the fifteenth day of December, 1921:

SCHEDULE No. 1.

GENERAL DOMESTIC SERVICE.

Rate.	Gross	Net
First 400 cubic feet or less per meter per month	$1 25	$1 15
Next 3,600 cubic feet per meter per month, per 1,000 cubic feet	2 25	2 15
Next 4,000 cubic feet per meter per month, per 1,000 cubic feet	1 90	1 80
Next 7,000 cubic feet per meter per month, per 1,000 cubic feet	----	1 55
All over 15,000 cubic feet per meter per month, per 1,000 cubic feet	----	1 30

The net rate is effective if the bill is paid at the office of the company on or before the tenth day of the month next succeeding that for which the bill is rendered. Otherwise the gross charge applies.

The above rates are subject to increase or decrease on the basis of three (3) cents per thousand cubic feet for each ten cents per barrel increase or decrease respectively in the price of oil above or below the price of $1.64 per barrel upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

SCHEDULE No. 2.

PREPAYMENT METER SERVICE.

Rate.

$2.25 per 1,000 cubic feet.

Minimum charge $1.15 per meter per month.

SCHEDULE No. 3.

HOTELS, RESTAURANTS AND BAKERIES.

Rate.	Gross	Net
Rate per 1,000 cubic feet per meter per month	$1 30	$1 25
Minimum weekly charge per meter	8 00	7 50

The net rate is effective if the bill is paid at the office of the company within four (4) days after the presentation of the weekly bill. Otherwise the gross charge applies.

The above rates are subject to increase or decrease on the basis of three (3) cents per thousand cubic feet for each ten cents per barrel increase or decrease respectively in the price of oil above or below the price of $1.64 per barrel upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

It is hereby further ordered, that, (1) in case of a reduction in the price of oil at any time, Contra Costa Gas Company shall file within ten (10) days thereafter an affidavit setting forth the new price of oil and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth; (2) should at any time an increase in the price of oil occur, Contra Costa Gas Company may, after filing affidavit

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of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined under the schedules herein set forth; (3) Contra Costa Gas Company shall, within ten (10) days of the date of this order, file with the Commission the schedules of rates herein set forth.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of November, 1921.

DECISION No. 9726.

J. S. HOMMES, J. A. LUNDEY, MAUDE M. SWISSHELM, A. W. HORTON, FRANK POESCHELL, A. A. ROGERS, H. DABORKEY, G. A. ROGERS, R. S. MARSHALL, ALVA CROSSMAN, F. FOSTER, CHAS. E. HENDERSON, MRS. JERRY THATCHER, W. S. ANDERSON, T. CAMP, R. A. WILLIAMS, JERRY THATCHER, JOSEPH HAZELTON, G. W. SWISSHELM, J. R. MOORE, H. E. HAWN, F. DRESCHER, M. E. CROOKHAM AND C. E. MOORE

vs.

C. C. WHITE WATER COMPANY, ALSO KNOWN AS WHITE BROTHERS WATER COMPANY.

Case No. 1612.

Decided November 8, 1921.

J. Oscar Goldstein, for Complainants and for the City of Chico.
Clyde Thomas, for Defendant.

BY THE COMMISSION.

OPINION.

The complaint in the above entitled matter alleges that the complainants as set out above are all resident consumers of the White Brothers Water Company, a public utility engaged in the business of supplying water to a district generally known as Chapmantown, which is a part of the city of Chico, Butte County; that for the last six months the water supplied consumers has been insufficient and inadequate; that on numerous occasions the water supply has been entirely shut off for periods of several hours of the day, and very frequently there has been insufficient water to flush toilets; and that the water pressure has been absolutely inadequate. The Commission is therefore requested to investigate the matter and render such decision as it may consider just and reasonable to remedy the conditions complained of.

The answer alleges in effect that the system is capable of supplying water adequately and in reasonable amounts to all present consumers, provided the water is used properly; that many of the users have irrigated lawns with open hoses and faucets, without sprinklers, wholly

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disregarding the rules regulating the hours for such use, and that as a result of such misuse some consumers have received more water than they were entitled to, while others have received an insufficient supply, and that the defendant water company has been unable to prevent this misuse of water.

A public hearing was held in this matter before Examiner Satterwhite at Chico, of which all interested parties were notified and given an opportunity to be present and heard.

Evidence presented at the hearing showed that there has been inadequate pressure and insufficient water with such frequency that it has become customary and necessary for all consumers to keep on hand buckets, bathtubs and other receptacles filled with water to provide for the periods when there is no water service.

The system is unmetered and the evidence indicated that among certain consumers there is a considerable waste of water, especially in lawn and garden irrigation.

Mr. M. R. MacKall, one of the Commission's hydraulic engineers, made a field investigation of the defendant's water system and the existing service conditions, and testified that when water was not being pumped directly into the mains, the pressure afforded by the small storage tank was entirely inadequate to properly serve the district, and recommended the installation of meters and of additional storage tanks to supply the necessary pressure and storage.

After a careful consideration of all the facts and conditions it appears advisable that the defendant herein should be required to install such improvements as are necessary to enable it to deliver water at all times in sufficient quantity and at adequate pressure, throughout the entire system.

The formulation of reasonable rules and regulations for lawn and garden use and their strict and rigid enforcement would tend to eliminate a great amount of the present service difficulties.

ORDER.

J. S. Hommes and others having made complaint in the above entitled proceeding, a public hearing having been held therein, and the matter having been submitted:

It is hereby found as a fact that the water service furnished by the defendant herein has been inadequate and that the pressures maintained have been insufficient.

And basing its order upon the foregoing finding of fact and upon the statements of fact contained in the opinion preceding this order;

It is hereby ordered, that White Brothers Water Company be and it is hereby directed to install on its water system storage facilities so located as to be capable of providing proper and reasonably adequate

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service at all times throughout the entire system, these improvements to be installed and in operation as soon as conditions will permit, but in no case later than December 31, 1921.

It is hereby further ordered, that White Brothers Water Company be and it is hereby directed to submit to the Commission for its approval, within twenty (20) days from the date of this order, detailed plans outlining the proposed improvements.

Dated at San Francisco, California, this eighth day of November, 1921.

DECISION NO. 9728.

IN THE MATTER OF THE APPLICATION OF M. E. LACASSIE FOR AN ORDER AUTHORIZING THE ESTABLISHMENT OF WATER METERS AND FIXING RATES IN WATER SYSTEM SUPPLYING THE INHABITANTS OF WALNUT CREEK WITH WATER.

Application No. 6885.

Decided November 8, 1921.

WATER UTILITY—WASTE UNDER FLAT RATES—METERS RECOMMENDED.—The Commission stated that it is evident that there is a considerable waste of water because of the flat rate schedule. The Commission expressed the belief that the fairest method of serving water to consumers is on a measured basis.

METERS—AUTHORITY TO INSTALL.—When measured rates are established authority to install meters is automatically granted.

Snook and Brown and *F. P. Tuttle*, for Applicant.
William J. Locke, for Town of Walnut Creek.

BY THE COMMISSION.

OPINION.

M. E. Lacassie, applicant herein, owns and operates a public utility water system, furnishing water for domestic and industrial purposes in the town of Walnut Creek, Contra Costa County.

Applicant alleges that by reason of the waste and unlawful taking of water, the supply has been insufficient to meet the demand; that the installation of meters will check the waste; that the net revenue derived from the system does not give applicant a return of 3 per cent upon the amount actually invested. Wherefore applicant asks that the Railroad Commission make its order authorizing her to install water meters and fixing a reasonable charge for water so supplied.

A public hearing was held at Walnut Creek, Contra Costa County, before Examiner Satterwhite, of which all of applicant's consumers were duly notified and given an opportunity to appear and be heard.

The water supply is derived from three springs and two wells. The spring flow is delivered by gravity to two tanks, located near the wells. The water from the wells is pumped into the tanks, from which it is distributed by gravity to the consumers.

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At the hearing applicant did not present an appraisal of her public utility property, nor a statement of operating expenses.

The operating expenses and revenues as shown by the annual reports filed with the Commission by applicant are as follows:

	1918	1919	1920
Operating expenses	$600 00	$600 00	$1,000 00
Operating revenues	1,128 00	1,236 00	1,236 00

Mr. D. H. Harroun, one of the Commission's engineers, presented a report covering the results of a field investigation, an appraisal of the property and a study of the cost of maintenance and operation. His appraisal shows an estimated original cost of the physical properties of the system of $7,869, and recommends $59 as a proper replacement annuity, computed by the sinking fund method. The report also recommends the sum of $959 as a reasonable estimate of the future cost of maintaining and operating the system. The estimated investment includes the cost of a new 100,000-gallon reservoir, which is to be constructed immediately. No objections were made at the hearing to any of the estimates presented, and, as they appear reasonable, they will be used for the purpose of this proceeding.

The following is a summary of the annual charges as indicated above:

Return on investment at 8 per cent	$630 00
Replacement annuity, 6 per cent sinking fund	59 00
Maintenance and operation cost	959 00
Total estimated annual charges	$1,648 00

The total revenue from this system for the year 1920 was $1,236. This shows a return of 2.77 per cent on the investment, based on the estimated annual charges as set out above.

Applicant asked in her petition and at the hearing that this Commission make its order authorizing the installation of water meters and the fixing of a reasonable rate for water so supplied. Inasmuch as the Commission will establish a measured rate in the following order, authority to install meters is automatically granted and applicant may install meters on any or all services she may desire, and charge the rates prescribed for that service.

The water supply of this system is not abundant, and means of conserving it should be adopted. It is also evident that there is a considerable waste of water because of the flat-rate schedule, which would be greatly decreased if the system were fully metered. The Commission believes that the fairest method of serving water to consumers is on a measured basis. This method has the advantage of conserving the water, of distributing the charges equitably among the consumers by

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charging according to the use, and in this instance it will decrease operating expenses by reducing or perhaps eliminating pumping.

The schedule of rates established in the following order is designed to yield to applicant maintenance and operation expense, replacement fund, and a reasonable return on the investment.

ORDER.

M. E. Lacassie having applied to the Railroad Commission for authority to install meters and to establish meter rates, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the rates and charges of M. E. Lacassie, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates and charges herein established are just and reasonable rates;

And basing its order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, by the Railroad Commission of the State of California, that M. E. Lacassie be and she is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following rates, to be charged for all service rendered subsequent to December 1, 1921:

Meter Rates.

Readiness-to-serve charge to apply to all metered services, per month	$0 50

Quantity Rates.

From 0 to 600 cubic feet per month, per 100 cubic feet	$0 25
Over 600 cubic feet per month, per 100 cubic feet	20

The quantity charge shall be in addition to the readiness-to-serve charge.

All other rates shall remain as at present in effect.

It is hereby further ordered, that M. E. Lacassie file with this Commission for its approval, within thirty (30) days from the date of this order, rules and regulations to govern her relations with her consumers.

Dated at San Francisco, California, this eighth day of November, 1921.

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DECISION NO. 9732.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO CREATE A BONDED INDEBTEDNESS IN THE AUTHORIZED SUM OF FIFTY MILLION DOLLARS, TO ENTER INTO A MORTGAGE OR DEED OF TRUST FOR THE PURPOSE OF SECURING THE SAME, TO ISSUE AND SELL BONDS OF SAID INDEBTEDNESS, WHEN CREATED, OF THE PAR VALUE OF TWO MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS, AND TO ISSUE AND SELL PREFERRED STOCK OF THE PAR VALUE OF THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS; AND, FURTHER,

IN THE MATTER OF THE APPLICATION OF SAN DIEGO GAS AND ELECTRIC COMPANY TO ISSUE STOCK OF THE PAR VALUE OF THREE HUNDRED DOLLARS, AND TO EXECUTE THE ABOVE MENTIONED MORTGAGE OR DEED OF TRUST JOINTLY WITH SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY, AND TO EXECUTE A LEASE OF ALL OF ITS PROPERTY TO SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY.

Application No. 6744.

Decided November 8, 1921.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 8956, dated May 9, 1921, as amended, authorized San Diego Consolidated Gas and Electric Company, among other things, to issue and sell at not less than 81 per cent of their face value and accrued interest, $2,750,000 of first and refunding mortgage 6 per cent bonds, subject, among others, to the condition that the proceeds from the sale of the bonds be expended only as authorized by the Railroad Commission; and,

Whereas, the Railroad Commission has heretofore authorized applicant to expend $1,985,965.55 of the proceeds obtained from the sale of said bonds to pay debentures and finance construction expenditures not otherwise capitalized and made by applicant up to and including August, 1921; and,

Whereas, applicant in its fifth supplemental petition in the above entitled matter reports that during the month of September, 1921, its net construction expenditures totaled $162,744.34 and that none of such expenditures have been financed through the issue of bonds; and,

Whereas, to finance in part such expenditures applicant asks permission to use $154,203.90 of the proceeds obtained from the sale of the bonds issued and sold under the authority granted in Decision No. 8956; and,

The Railroad Commission being of the opinion that applicant's request should be granted;

It is hereby ordered, that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to expend not exceeding

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$154,203.90 of the proceeds obtained from the sale of the bonds which were issued and sold pursuant to authority granted in Decision No. 8956, dated May 9, 1921, as amended, to finance construction expenditures made by applicant during the month of September, 1921, all as more particularly set forth in the fifth supplemental petition filed in this proceeding.

It is hereby further ordered, that the order in Decision No. 8956, dated May 9, 1921, as amended, shall remain in full force and effect, except as modified by this fourth supplemental order.

Dated at San Francisco, California, this eighth day of November, 1921.

DECISION NO. 9736.

IN THE MATTER OF THE APPLICATION OF F. HANCHETT AND N. LOCICERO, INDIVIDUAL OPERATORS OF AUTO STAGES, UNDER THE NAME OF PACIFIC AUTO STAGE COMPANY, BETWEEN SAN FRANCISCO, SAN JOSE AND INTERMEDIATE POINTS, FOR AN ORDER PERMITTING THE ABANDONMENT OF LOCAL TRANSPORTATION SERVICE BETWEEN SAN FRANCISCO AND SAN MATEO AND INTERMEDIATE POINTS.

Application No. 7261.

Decided November 8, 1921.

Derlin and Brookman, by *Douglas Brookman*, for Applicants.
W. H. Pearson, for Peninsular Rapid Transit Company, Protestant.

BY THE COMMISSION.

OPINION.

F. Hanchett and N. Locicero, individual operators of auto stages between San Francisco and San Jose and intermediate points, have petitioned the Railroad Commission for an order authorizing the discontinuance of local service between San Francisco and San Mateo and intermediate points, the application alleging that the local service proposed to be discontinued can not be rendered except at a loss, and that there are other existing carriers ready, willing and able to adequately care for all the needs of the public offering for transportation between such points.

A public hearing on this application was conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

The applicants herein each possess an individual operative right for the conduct of an automobile stage line as a common carrier of passengers between San Francisco and San Jose and intermediate points, such operative right having been acquired by reason of operation prior to and continuously since May 1, 1917, the date specified by the legislative enactment known as chapter 213, Laws of 1917, as that upon

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which operators were not required to secure a certificate of public convenience and necessity from the Railroad Commission nor permits from the governing bodies of the various political subdivisions through which a route passed. These operators conduct their business by protecting a schedule and tariff filed jointly under the fictitious name of "Pacific Auto Stage Company."

Applicants in their testimony allege that the business handled locally by their respective lines between San Francisco and San Mateo, which includes the intermediate community of Burlingame, has been slight in volume for the reason that the business communities of San Mateo and Burlingame are not served, the operation being confined to business on the state highway passing through a portion of these communities. Applicants have never established any local stations in either city, and although a rate of 35 cents has existed between San Francisco and Burlingame or San Mateo, such rate has not resulted in returning adequate compensation for the service rendered. A record of the number of passengers handled by applicants between San Francisco and San Mateo or Burlingame shows that during the period from September 30 to December 31, 1920, inclusive, a total of but three passengers were handled; during the period from January 1 to October 31, 1921, inclusive, a total of seventy-four passengers were handled. It is apparent that the volume of traffic under consideration is practically negligible and that the public makes but little use of the facilities which are offered by these applicants for transportation between San Francisco and San Mateo or Burlingame and intermediate points.

The granting of the application is opposed by the Peninsular Rapid Transit Company. This protestant operates over the same territory as that covered by the applicants, but renders practically two classes of service: one a local service between San Francisco and Palo Alto, serving all intermediate points; the other a through service to San Jose, with intermediate service between Redwood City and San Jose. The local service is given on a thirty-minute headway and approximately five hundred passengers per month are handled between San Francisco and San Mateo or Burlingame. Protestant contends that it is inequitable to permit applicants to suspend service to the public as herein sought and that every passenger offering for transportation between these points uses seating capacity which might be devoted to the use of a prospective long haul and presumably more compensatory patron. The Market Street Railway Company, on its San Mateo line, also serves the territory herein considered with an electric interurban service at a 25-cent fare, which rate is also that of the Peninsular Rapid Transit Company.

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In view of the fact that but 5.3 passengers per month have availed themselves of the service offered by applicants during a period of fourteen consecutive months, and that the testimony in this proceeding shows that the protestant, Peninsular Rapid Transit Company, is handling an average of approximately 500 passengers per month between the points where local carriage of passengers is sought to be discontinued, it would appear that the business does not justify the continuance by the applicants of the local service which is not patronized by the public, and the small number of passengers now handled can not justly be said to be a burden on the other existing carriers if the public is required to use the facilities now provided by them. If the rate of 25 cents as now appearing in the tariffs of the Peninsular Rapid Transit Company and the Market Street Railway is not compensatory a showing should be made to the Commission in an appropriate proceeding.

In view of all the evidence in this proceeding, we are of the opinion that the application should be granted.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised;

It is hereby ordered, that this application be and the same hereby is granted, subject to the following conditions:

I. Applicants, F. Hanchett and N. Locicero, will be required to immediately cancel all tariffs and time schedules now on file with this Commission in so far as such tariffs and time schedules refer to rates and schedules affecting the territory between San Francisco and San Mateo and intermediate points as regards local service, such cancellations to be made in accordance with the provisions of this Commission's General Order No. 51 and other regulations of this Commission.

II. Applicants, F. Hanchett and N. Locicero, will be required to post notices of the proposed discontinuance of local service between San Francisco and San Mateo and intermediate points at all stations and ticket offices, at least ten days prior to the discontinuance of such local service, a copy of such notice to be filed with this Commission.

Dated at San Francisco, California, this eighth day of November, 1921.

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DECISION NO. 9745.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF BONDS OF THE PAR VALUE OF TWO HUNDRED THOUSAND DOLLARS.

Application No. 7311.

Decided November 10, 1921.

Chickering and Gregory, by *Allen L. Chickering*, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

Western States Gas and Electric Company asks permission to issue and sell at not less than 80 per cent of their face value plus accrued interest, $200,000 of its first and refunding mortgage 5 per cent sinking fund gold bonds, due June 1, 1941.

As of September 30, 1921, applicant reports $3,231,500 of common stock and $3,017,000 of preferred stock outstanding. As of the same date, its funded debt outstanding in the hands of the public is reported as $7,782,500, consisting of $4,206,500 of applicant's first and refunding mortgage bonds, $213,000 of American River Electric Company's 5 per cent bonds due July 1, 1933; $1,199,000 of applicant's 5-year 6½ per cent gold notes due August 1, 1923, and $2,164,000 of 10-year 6 per cent notes due February 1, 1927. In addition, applicant reports that it has pledged $1,724,000 of its first and refunding mortgage bonds as collateral to secure the payment of the $1,199,000 of 5-year notes.

The company alleges that at this time it is entitled, under the terms of its first and refunding mortgage, to issue bonds in the amount of $200,601.74 on account of capital expenditures made up to September 30, 1921. By the terms of the first and refunding mortgage, applicant is permitted to have additional bonds certified to the extent of 75 per cent of the cost of betterments, additions and improvements to its plant, system and equipment subsequent to June 1, 1911. Applicant reports in Exhibit "6" that since June 1, 1911, and prior to September 30, 1921, it has expended for such purposes the sum of $5,922,802.32, 75 per cent of which is $4,442,101.74. The petition shows that against this amount applicant has issued $4,241,500 of first and refunding bonds, leaving a balance against which no bonds have been certified, of $200,601.74.

Applicant intends to issue and sell $200,000 of bonds and to use the proceeds to finance in part uncapitalized construction expenditures made prior to September 30, 1921, and through such financing, pay outstanding indebtedness, which, as of September 30, 1921, is

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reported as $341,769.95. Samuel Kahn, applicant's vice president and general manager, testified that he believed the bonds could be sold at not less than 80 per cent of their face value, plus accrued interest.

I herewith submit the following form of order:

ORDER.

Western States Gas and Electric Company, having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income; therefore,

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to issue and sell $200,000 of its first and refunding mortgage sinking fund 5 per cent gold bonds due June 1, 1941, and to use the proceeds to finance in part construction expenditures made prior to September 30, 1921, and through such financing pay outstanding current indebtedness referred to in this application.

The authority herein granted is subject to further conditions as follows:

1. The bonds herein authorized shall be sold on or before April 1, 1922, at not less than 80 per cent of their face value net, plus accrued interest.

2. Western States Gas and Electric Company shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $200.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this tenth day of November, 1921.

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DECISION NO. 9747.

IN THE MATTER OF THE APPLICATION OF THE GARDEN GROVE CITY WATER COMPANY OF GARDEN GROVE, ORANGE COUNTY, CALIFORNIA, FOR AUTHORITY TO INCREASE ITS RATES TO A JUST AND REASONABLE FIGURE.

Application No. 6755.

Decided November 10, 1921.

J. A. Knapp, for Applicant.

BY THE COMMISSION.

OPINION.

The Garden Grove City Water Company is a public utility supplying water for domestic and irrigation purposes to residents in Garden Grove and vicinity, Orange County, California. In this proceeding applicant asks for authority to increase its water rates, alleging in effect that the present schedule of rates does not produce a sum sufficient to cover maintenance and operating expense, replacement fund, or a fair return upon the investment.

A public hearing was held at Garden Grove before Examiner Westover, of which all consumers were notified and given an opportunity to appear and be heard.

The Garden Grove City Water Company was incorporated in 1914 and acquired this water system with the authorization of the Railroad Commission. The water supply is obtained from a well and stored in a 12,000-gallon tank elevated forty feet above ground, from which it is distributed by gravity to about 172 consumers. A few irrigation consumers are supplied by delivering the capacity of the pump on an hourly basis.

The rates in effect are as follows:

Flat rates:
Per family ---------- $1 00 per month
Meter rates:
Minimum ---------- $1 00 per month
$0 10 per 100 cubic feet.
Irrigation:
$0 75 per hour capacity of pump.

Applicant did not present an appraisal of its property.

F. H. Van Hoesen, one of the Commission's assistant engineers, presented a report covering the results of a field investigation of the properties of this utility, together with a study of the cost of maintenance and operation. His appraisal shows an estimated original cost of the system of $11,182 and recommends a replacement annuity of $204 computed on the 6 per cent sinking fund method. His report also shows an estimate of a reasonable necessary maintenance and operating expense for the ensuing year amounting to $1,275.

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These estimates were not questioned at the hearing and appear reasonable.

The following is a summary of the annual charges as indicated above:

Return on $11,182 at 8 per cent	$895 00
Replacement annuity	204 00
Maintenance and operating expense	1,275 00
Total	$2,374 00

The records of the company show that the total operating revenue for 1920 was $1,861.06. The number of consumers has increased approximately 45 per cent since January 1, 1920, and it is reasonable to assume that the business of the utility will continue to increase to some extent. It is, however, apparent that this utility is entitled to an increase in its rates.

There are no data of water use available upon which to establish a schedule of meter rates for this utility, but the schedules of flat and measured charges set out in the following order are designed to produce a reasonable income.

ORDER.

Garden Grove City Water Company having made application in the above entitled proceeding, a public hearing having been held thereon and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Garden Grove City Water Company for water delivered to its consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for such service.

And basing its order upon the foregoing finding of fact and upon the findings contained in the opinion preceding this order;

It is hereby ordered, that Garden Grove City Water Company be and it is hereby authorized and directed to file with the Railroad Commission, within twenty (20) days from the date of this order, the following schedule of rates for all water delivered to its consumers on and after December 1, 1921:

Monthly Meter Rates for Domestic Service.

For use from 0 to 1000 cubic feet per 100 cubic feet	$0 20
From 1000 to 4000 cubic feet per 100 cubic feet	15
All use in excess of 4000 cubic feet per 100 cubic feet	10

Monthly Minimum Charges.

For ⅝-inch by ¾-inch meter	$1 00
For ¾-inch meter	1 25
For 1 -inch meter	1 75
For 1½-inch meter	2 50
For 2 -inch meter	3 00
For 3 -inch meter	4 00
For 4 -inch meter	5 00

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Monthly Flat Rates.

1. Residences, boarding houses, apartments, lodging houses, tenements and flats of five rooms or less, including toilet and bath	$1 00
For each additional room	20
For each additional bath	20
For each additional toilet	20
Additional for each private garage and one automobile	20
For each additional automobile	20
Additional for private barn, with not more than two horses or cows	50
For each additional horse or cow	10
2. Sprinkling or irrigation of lawns, shrubbery, trees, gardens, etc., per square yard	002
3. Blacksmith shops, machine shops, lumber yards, printing offices, bakeries, undertaking parlors, grocery stores, theaters, warehouses, butcher shops, and large stores	2 00
4. Drug stores, dental offices and photograph galleries	3 50
5. Bottling works, creameries, slaughter-houses and laundries	5 00
6. Banks, professional offices, billiard parlors, fraternal halls, clubrooms, churches, shops, plumbing shops, stores and shops not otherwise listed	1 50
7. Office buildings, for each room	50
8. Restaurants, chop houses and cafes, per unit seating capacity	15
9. Livery stables and feed yards, per average number of stock fed each	25
10. Barns in connection with stores, shops, etc., not more than two horses	50
11. Garages, six automobiles or less	3 00
For each additional automobile	50
12. Soda fountains and ice cream stands, either alone or in connection with other business	2 50
13. Barber shops, per chair	1 00
Additional for each bathtub	1 00
Additional for each toilet	50
14. Hotels:	
Dining room	2 00
Bedroom and running water	25
Each bathtub	50
Each toilet	30
15. Building work:	
For mortar and to dampen brick, per 1000 brick	35
For cement work, each barrel	15

Irrigation Water.

Full flow of pump in good repair, per hour	$1 00

It is hereby further ordered, that Garden Grove City Water Company file with this Commission within twenty (20) days from the date of this order, rules and regulations to govern its relations with its consumers.

Dated at San Francisco, California, this tenth day of November, 1921.

DECISION No. 9748.

IN THE MATTER OF THE APPLICATION OF CAMP ROSE COMPANY, A CORPORATION, FOR AUTHORIZATION TO INCREASE WATER RATES TO CONSUMERS.

Application No. 6956.

Decided November 10, 1921.

Arthur Barendt, for Applicant.
Paul F. Fratessa, for Mrs. Peter Fratessa.

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J. J. Flaherty, in propria persona.
A. J. Ferrogiaro, in propria persona.
Mrs Katherine Sylvester, in propria persona.
C. B. Greeley, in propria persona.
K. C. Struckmeyer, in propria persona.
Mrs. Donahue, in propria persona.

By the Commission.

OPINION.

The application in the above entitled proceeding alleges that the present rate for water supplied to consumers does not yield sufficient revenue to enable the applicant to continue service except at a continual loss; and that it has been necessary to expend this year $1,550 for improvements to the system, although it was extremely difficult to secure the necessary funds. The Commission is therefore asked to increase the present annual rate from $6 to $18 per year for each consumer.

A public hearing was held in the above entitled matter before Examiner Satterwhite in San Francisco, of which all interested parties were notified and given an opportunity to appear and be heard.

The Camp Rose Company, a corporation, was organized in 1908 for the purpose of selling real estate, in conjunction with which it also installed and operated a small water system serving its subdivided lots. The territory served comprises some one hundred and sixty acres known as Camp Rose, and is a summer resort located on the Russian River about two miles above the town of Healdsburg, in Sonoma County.

The water supply is obtained from springs, and a well which is located at the edge of the Russian River. The location of the springs is such that only a few of the consumers can be supplied by gravity, which necessitates pumping most of the supply. Water is stored in five redwood tanks of a total capacity of 14,000 gallons and distributed through approximately 14,500 feet of one and one-half and two-inch pipe lines.

This year there were sixty consumers, all but eight of whom were summer residents only, using water from a few weeks to four months. The present rates are $6 per year, payable in advance, and were fixed by the applicant in 1908.

No inventory or appraisement of the system was presented by the applicant, and there are no records of the cost of installing the original system; however, the applicant estimated the total investment in the plant to date to be $5,969, including abandoned and replaced equipment, and claimed that the future annual operation and maintenance expenses will be $881, and that the revenues for 1920 amounted to $360.

Mr. M. R. MacKall, of the Commission's hydraulic division, submitted a report and appraisal of this plant, based upon available rec-

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ords of installation, in which the estimated original cost of the system was shown as $4,096, the replacement annuity calculated by the sinking fund method as $79, and recommended as reasonable an annual allowance of $725 for maintenance and operation expenses. It is believed that by careful and economical management the applicant can reduce considerably the amount estimated by it as being necessary for power and labor expenditures.

A careful consideration of the evidence, therefore, leads to the conclusion that the estimates of the Commission's engineer are fair and reasonable and they are used herein.

The total estimated annual charges based upon the foregoing figures are $1,132, and the revenues for the year 1920 amounted to $360. It is evident, therefore, that the applicant is entitled to an increase in rates. However, the system is overbuilt to such an extent that to allow a full return upon the invested capital, over and above the costs of maintenance, operation and depreciation, would place an undue burden upon the ratepayers.

Considerable dissatisfaction was expressed by the consumers because of former inadequate and intermittent service. Testimony indicated that since certain improvements were installed this year, service conditions have been greatly improved, but that the water served from the well is of poor quality and distasteful in spite of chlorination. It is expected that the applicant will take such steps as are necessary to supply water of potable quality.

Objection to any increase in rates was made by some consumers because of the fact that in certain of the deeds to the lots sold to them by the applicant there was a provision purporting to convey to the purchaser a right to obtain water from this system for an annual payment of $6 where lots were purchased for cash, and for $7.50 per year for a period of five years and thereafter $6 per year where the lots were purchased on deferred payments. Other deeds contain no such provisions.

To approve a rate to certain favored consumers wholly out of proportion to what would under the present conditions be considered a reasonable rate, would necessarily result in improper and unfair discrimination and would render it necessary for some consumers to pay excessive rates to insure that the utility continue in business. In determining a reasonable rate herein, it is upon the assumption that all consumers are to pay the established rate without discrimination.

In arriving at an adjustment of the rates of this utility, which will be equitable both to the company and the consumers, it is necessary to take into consideration the present overbuilt condition of the system, and that it was constructed in connection with a real estate project

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which has not yet attained its anticipated development. The schedule of rates established in the following order is designed to produce maintenance and operation expenses, replacement annuity, and also provide a certain amount for return upon the investment.

ORDER.

The Camp Rose Company, a corporation, having made application as above, a public hearing having been held, and the matter having been submitted:

It is hereby found as a fact that the rate now charged by Camp Rose Company for water supplied to its consumers is unjust and unreasonable in so far as it differs from the rate herein established and that the rate herein established is a just and reasonable rate for such service.

And basing its order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Camp Rose Company be and it is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order the following rate for water delivered to its consumers at Camp Rose, effective as to all service rendered on and after December 31, 1921:

Annual charge for the calendar year, payable in advance---------- $15 00

It is hereby further ordered, that Camp Rose Company file with the Railroad Commission, within thirty (30) days from the date of this order, rules and regulations governing service to its consumers, to become effective upon their acceptance for filing by this Commission.

Dated at San Francisco, California, this tenth day of November, 1921.

DECISION NO. 9749.

THOMAS WILSON

vs.

J. L. MARSHALL.

Case No. 1553.

Decided November 10, 1921.

Sarau and Thompson, by *H. L. Thompson*, for Complainant.
Thos. C. Yager, for Defendant.

BY THE COMMISSION.

OPINION.

Thomas Wilson, complainant in the above entitled proceeding, alleges in effect that in May, 1920, he subdivided a certain tract of land known as Wilson's First Addition to the City of Indio, Riverside County, California; that he entered into an agreement with defendant

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whereby the latter agreed to install certain pipes in this subdivision, the terms of which defendant has failed to fulfill, except as to a small portion of the tract; that in this portion of the tract it is believed defendant is charging a rate in excess of the authorized schedule for the city of Indio.

Defendant in his answer denies the principal allegations of complainant and alleges in effect that the agreement is no longer binding, due to the fact that complainant has failed to fulfill the terms thereof.

A hearing was held in the above entitled proceeding before Examiner Satterwhite at Indio, California, of which hearing all interested parties were notified and given an opportunity to appear and be heard.

At the hearing a stipulation, as set out in Appendix "A," was submitted by the parties hereto wherein it is agreed that the Railroad Commission make its order embodying the agreement.

It appears that the agreement satisfies the complaint and it is recommended that the agreement be made the order of this Commission, except that portion relating to the establishment by the Commission of rates to be charged on the subdivision. Attention is directed to the fact that defendant has a rate schedule now on file with this Commission and that these rates are the legal rates to be charged on the system.

ORDER.

Thomas Wilson having filed a complaint against J. L. Marshall, as outlined above, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that a satisfactory agreement has been reached between all interested parties, as set out in Appendix "A" attached hereto; and,

It is hereby ordered, that J. L. Marshall be and he is hereby directed to comply with the terms of the said agreement; provided, however, that in the event Thomas Wilson does not also fully comply with said terms, J. L. Marshall may then apply to this Commission for a modification of this order.

Dated at San Francisco, California, this tenth day of November, 1921.

APPENDIX "A."

Stipulation.

It is hereby stipulated and agreed by and between Thomas Wilson, complainant in the above entitled cause, and J. L. Marshall, the defendant therein, that the honorable, the Railroad Commission of the State of California may make and render its order embodying the following stipulations:

That the defendant herein shall within thirty days from the date of the herein above referred to order lay and install free of charge to the complainant a four-inch main from its pumping plant or storage tanks to a point in the center line of Requa avenue as per map of Wilson's first addition to Indio, immediately opposite the alley running north and south through block 3 of said addition.

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That the defendant will within said time herein above mentioned purchase, lay and install four-inch screw-casing iron pipe mains and laterals in Wilson's first addition to Indio as per map accepted by the board of supervisors of Riverside County on the twenty-first day of April, 1920, and in what is commonly known as Wilson's second subdivision, and particularly described as follows, to wit:

A four-inch main from the point on Requa avenue aforesaid, running south through the alley in block 3 to the north curb of Wilson avenue;

A four-inch main running east and parallel with the north curb of Wilson avenue to the east curb of Fargo avenue;

A four-inch lateral running north along and parallel to the east curb of Fargo avenue to the middle of lot 1, block 1, of said Wilson's first addition to Indio;

A four-inch main from the intersection of the center line of the alley in block 3 and the north curb of Wilson avenue, parallel and along said north curb of Wilson avenue to the intersection of said north curb line with the center line of the alley in block 7 of said Wilson's first addition to Indio;

A four-inch lateral running north and perpendicular to the north curb line of Wilson avenue through the alley in block 5 of said map aforesaid to the center of lot 1 in said block 5;

A four-inch lateral running south through the alley in Wilson's second addition to Indio to the rear of lots facing on the county highway.

Where the words "curb line" is used, it shall be so construed to mean approximately 10 feet from the lot boundaries.

The course and extent of the mains and laterals above referred to are marked in ink upon the map marked in the above entitled cause Complainant's Exhibit A, and hereto attached and made a part of this stipulation.

It is stipulated herein that the complainant shall advance the cost of the installation of the above system, other than herein above specified, said cost to include the cost of the pipe and the laying and installing thereof. That the number of feet of pipe shall be computed by the engineer of the Commission and the total cost of installing said system other than herein above specified shall be divided by the number of hundred feet of pipe necessary for said installation. That the sum so found shall be the sum which the defendant shall, and hereby agrees, to rebate to the complainant for and at the time of each permanent connection made to said system.

The definition of a permanent connection to be left to the Commission and specified in its order.

The complainant to agree to guarantee for one year the connections made in Wilson's second subdivision, each connection so guaranteed to be deemed a permanent connection.

It is stipulated also at the time of the installation of said system as aforesaid, and in said additions other than block 7, that there is nine permanent connections, which said nine permanent connections, and each of them, are hereby guaranteed by the complainant for a period of one year. The amount herein above guaranteed shall be such sum per month as the Railroad Commission of the State of California shall fix as a minimum charge.

That the rebates herein above provided to be made by the defendant to the complainant for each permanent connection shall cease at such time as the complainant is fully reimbursed for the amounts advanced for the installation of said system.

It is stipulated that within ten days from the signing of the above order the complainant will deposit in the First National Bank of Indio the sum of $750, which said sum shall be subject to a draft signed by the defendant, provided there is attached thereto a bill of lading or bill of sale for the four-inch pipe to be installed in said tract. When the cost of installation is estimated, the defendant shall deduct from said estimated cost the total rebate for the nine permanent connections hereinabove stipulated and the complainant shall be credited therewith. Adjustments to be made between actual and estimated cost and actual and estimated amount of rebate when the system is installed. After the complainant is credited with the amount of the rebate for said nine permanent connections, complainant shall pay the additional cost of installation at the time bills are rendered for the same.

In case of dispute between complainant and defendant over any items of cost, labor or otherwise with reference to the installation of said system, the same may be referred informally to the Commission and its decision shall be binding upon both parties.

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No interest shall be charged upon any sums advanced by complainant for the installation of said system. Defendant shall forthwith pay to complainant the sum of $110.53, heretofore advanced by complainant for pipe installed in block 7.

As to that portion of the property embraced in Exhibit A, hereto attached, not heretofore covered by this stipulation, and for which no provision for installation is made, it is hereby stipulated that at such time as the complainant herein shall deem himself justified in demanding water for said portion not hereinabove provided for, he shall make written demand upon the defendant and shall advance the cost of installation for said system in the same manner as hereinabove provided for, for which cost of installation the defendant shall rebate to complainant at the time of each permanent connection the actual cost per hundred feet of such installation; provided, however, that the defendant shall at no time be required to install less than 300 feet of main. The grade and size of pipe in all instances to be the same as hereinabove provided for.

It is expressly stipulated by and between the parties hereto that the above stipulations are made for the purpose of adjusting the differences between the complainant and the defendant with reference to the defendant's furnishing water upon the said tract aforesaid, and that the Commission may, without objection, make such further order as it may deem advisable to the end that such differences may be adjusted, within the pleadings in this case.

It is further stipulated that there shall be added to the actual cost of installation the sum of ten per cent, which said sum of ten per cent shall cover the cost of supervision, but the defendant herein shall not be entitled to any services or labor performed by him or for any other charge for supervision; said sum to be added to the actual cost of installation in obtaining the amount to be used as the basis for ascertaining the amount of rebate on each permanent connection.

DECISION No. 9753.

IN THE MATTER OF THE APPLICATION OF SOUTH FEATHER LAND AND WATER COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN RATES AND CHARGES FOR WATER FURNISHED AND SERVICE RENDERED BY IT, IN THE COUNTIES OF BUTTE AND YUBA.

Application No. 5283.

WYANDOTTE WATER USERS' ASSOCIATION

vs.

SOUTH FEATHER LAND AND WATER COMPANY.

Case No. 1403.

Decided November 10, 1921.

RATES—ABILITY TO PAY—LIMITATION OF SERVICE.—While it is held to be an indisputable fact that rates are directly affected by the ability of the ratepayer to meet them, the question of the ability or inability to pay is often most difficult to determine. Since in the present case further extension of service to new lands not heretofore irrigated is now restricted, the burden of the rate to yield the necessary revenue falls on existing consumers for the future operation of the system.

W. E. Duncan, Jr., for Wyandotte Water Users' Association and Protestant.
C. F. Metteer, for South Feather Land and Water Company.

BY THE COMMISSION.

SECOND SUPPLEMENTAL OPINION ON FURTHER HEARING.

A first supplemental opinion and order on further hearing of above entitled proceedings was rendered by this Commission on May 23, 1921—Decision No. 9002.

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This decision was issued, pending a final determination of the matters involved, to provide applicant with funds to enable it to make its necessary preparations to give proper irrigation service for the approaching season, and upon the showing from the evidence that there was urgent need of relief. Provision was made therein for collection of the first instalment of the annual charge for the present irrigation season at the rate established by this Commission's Decision No. 8492, rendered on December 24, 1920, namely, one-half of the annual charge of $60 per miner's inch per season. We have now for consideration the protests filed by the consumers against the irrigation rate established by aforementioned decision.

The protestants ask for a reconsideration and an adjustment of this rate, alleging in effect that it results in charges to the consumers that are unduly high and greater than they can afford to pay. In support of their contentions much additional evidence was introduced at the further hearing in these proceedings. This consisted largely of the testimony of a number of consumers who presented statements in more or less detail of the expenditures and crop receipts for their orchard properties. Also, testimony was introduced as to the recent inadequate service rendered by the utility, claiming thereby that their crops would not be properly matured, and consequently losses would be suffered.

It was admitted by applicant that a water shortage existed on the system during the three seasons of 1918 to 1920, inclusive, when the available supply during the low flow of the streams was inadequate to furnish the requirements of the consumers and it was necessary to prorate deliveries of water. However, it was shown that the above seasons were a succession of years of abnormally low rainfall and that the water shortage was general throughout the state, but no evidence was introduced that the utility, under the conditions obtaining on the system, had not efficiently transmitted and distributed the water supply available during said water shortage.

While it is an indisputable fact that rates are directly affected by the ability of the ratepayer to meet them, the question of the ability or inability to pay is often most difficult of determination. An important factor in connection with the establishment of the rate was that the system as at present developed has now reached approximately the limits of its capacity in order to provide adequate service for the needs of the present acreage irrigated. And, since further extension of service to new lands not heretofore irrigated is now restricted, the burden of the rate to yield the necessary revenue falls on existing consumers for the future operation of the system under the conditions which obtain. This factor and all other elements considered by the Commission in fixing these rates are very fully set forth and discussed

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in the opinion rendered in Decision No. 8492, and reference is hereby made thereto.

After careful analysis and consideration of the testimony and data submitted at the further hearing, it appears that no convincing evidence was introduced which in fairness to both the utility and the consumers would justify any modification of the rate schedule heretofore established in this proceeding.

SECOND SUPPLEMENTAL ORDER.

A further hearing having been instituted by this Commission in the above entitled proceedings, following protests filed by the consumers against the irrigation rate in effect and heretofore established in Decision No. 8492, rendered by the Commission December 24, 1920; a public hearing having been held and additional evidence introduced, the matter having been submitted and being now ready for decision:

It is hereby found as a fact that said irrigation rate at present in effect is a just and equitable rate to be charged for the service rendered by South Feather Land and Water Company to its consumers;

And basing its order upon the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order and in the opinion heretofore rendered in Decision No. 8492;

It is hereby ordered, that the irrigation rate remain as set forth and established in Decision No. 8492 and that South Feather Land and Water Company proceed to collect, according to its rules and regulations, the second instalment for 1921 of the rate so established, namely, one-half of the annual charge of $60 per miner's inch per season.

Dated at San Francisco, California, this tenth day of November, 1921.

DECISION No. 9759.

IN THE MATTER OF THE APPLICATION OF FOOTHILL DITCH COMPANY, A CORPORATION, TO INCREASE RATES FOR WATER SUPPLIED.

Application No. 6643.

Decided November 17, 1921.

D. E. Perkins, for Applicant.
Karl Mechantanz, for the Consumers.

MARTIN, *Commissioner.*

OPINION.

Foothill Ditch Company, a public utility supplying water for irrigation purposes to about 1500 acres of citrus orchards in the vicinity of Exeter, Tulare County, alleges in effect that the present rate of 12 cents per miner's inch day does not produce sufficient revenue to

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yield a reasonable return upon the capital invested in the system, and asks the Commission to authorize an increase in rates to 15 cents per inch.

A public hearing was held at Exeter, of which all interested parties were notified and given an opportunity to be present and be heard. At this hearing the application was amended and the Commission was asked to fix such rates as were deemed proper for the service rendered.

The present rate of 12 cents per miner's inch day was established by the Commission in Decision No. 2309, dated April 20, 1915, and reference is hereby made to this decision and to Decision No. 3763, dated October 4, 1916, for a detailed description and history of the water system.

Applicant's engineer submitted an estimate of original cost of the plant amounting to $68,579, and the book cost was shown by the utility's accountant to be $67,039.

Mr. John Spencer, one of the Commission's hydraulic engineers, presented a report wherein the original cost was estimated to be $68,236.

All estimates of original cost include the cost of a concrete pipe line built to replace a ditch sold to the Lindsay-Strathmore Irrigation District, from which a considerable profit was derived, and should, therefore, be adjusted accordingly. In view of the testimony of applicant's president to the effect that the sale mentioned was not intended to increase the consumers' burden in any way, $47,500 is recommended as a reasonable sum to be used as the rate base in this proceeding. Included in the rate base is a sum sufficient for the installation of such additional measuring devices as are required.

Mr. Spencer's estimate of depreciation annuity, computed by the sinking fund method at 6 per cent, is $700, and appears reasonable.

The maintenance and operating expense, as shown by the utility's annual reports to the Commission, for the past three years has been as follows:

1918	$7,070 00
1919	8,518 00
1920	10,155 00

These costs were shown to include various sums expended for the purchase of water and for pumping, which will probably not recur annually. Wages of labor have declined and some further reduction in expense may, therefore, be anticipated.

Mr. Spencer's estimate of normal maintenance and operating expense for the future was $6,292, and was objected to by the utility as too low.

After a careful consideration of all the evidence it appears that an allowance of $6,700 for maintenance and operating expense will be fair and reasonable.

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The annual charges, based upon the foregoing figures, are as follows:

Interest at 8 per cent on $47,500	$3,800 00
Depreciation annuity	700 00
Maintenance and operating expense	6,700 00
Total	$11,200 00

The utility's revenues for the past three years have been as follows:

1918	$9,312 00
1919	10,970 00
1920	12,090 00

These revenues are greater than normal due to the fact that the utility has been able at times to sell extra water during the off season. At times this extra water was pumped and on other occasions was purchased. It appears that the sum of $9,670 fairly represents what may be considered a normal annual revenue, and that the utility is entitled to an increase in rates.

The method of water deliveries on this system is open to criticism due to the fact that in some instances no actual measurement of the quantities delivered was made, and it is recommended that the collection of the rates established in the accompanying order be conditioned upon the installation of proper measuring devices at all turnouts.

The following form of order is submitted:

ORDER.

Foothill Ditch Company having made application to this Commission for permission to increase its rates for water delivered for irrigation use in the vicinity of Exeter, Tulare County, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Foothill Ditch Company for water delivered to its consumers are unjust and unreasonable, in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service;

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion preceding this order;

It is hereby ordered, that Foothill Ditch Company be and it is hereby authorized and directed to file with the Railroad Cammission, within twenty (20) days from the date of this order, and thereafter charge, effective for all deliveries subsequent to December 31, 1921, the following rates for water supplied to its consumers:

Rate Schedule.

For each miner's inch flow of water for 24 hours (The miner's inch referred to above shall be a flow equivalent to 1/50 of one cubic foot per second.)	$0 14
Carrying charge for water used at the Wallace (Goodale) ranch, per second-foot per month	6 00

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It is hereby further ordered, that the collection of the foregoing schedule of rates is expressly conditioned upon the installation by Foothill Ditch Company of proper devices for the measurement of all water delivered to its consumers.

It is hereby further ordered, that Foothill Ditch Company be and it is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations governing its relations with its consumers.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of November, 1921.

DECISION No. 9760.

IN THE MATTER OF THE APPLICATION OF SANTA CRUZ COUNTY UTILITIES, A CORPORATION, FOR AN ORDER FIXING, ADJUSTING AND INCREASING THE RATES FOR THE SALE OF WATER AT GLEN ARBOR, RIVERSIDE PARK, BEN LOMOND, BROOKDALE AND BOULDER CREEK, AND TO INCREASE THE RATES FOR THE SALE OF ELECTRICITY AT BROOKDALE, BOULDER CREEK AND LORENZO, IN SANTA CRUZ COUNTY, STATE OF CALIFORNIA.

Application No. 6254.

Decided November 17, 1921.

J. C. Hughes, for Applicant.
H. W. Erskine, for the Brookdale Club.
Geo. W. Smith, for certain consumers of the town of Boulder Creek.

BY THE COMMISSION.

OPINION.

The Santa Cruz County Utilities, a corporation, is engaged in the public utility business of supplying electricity for light and power to consumers in Boulder Creek, Lorenzo and Brookdale, and water for domestic and commercial purposes to the inhabitants of Boulder Creek, Brookdale, Ben Lomond and Riverside Park. It also furnishes water for the system owned and operated by Mrs. L. W. Coffee, serving the community of Glen Arbor. These towns are well known summer resorts situated on the San Lorenzo River in Santa Cruz County. The applicant in the above entitled matter alleges that it has made no profits from the operation of the plants, and that unless the present rates for light and water service rendered by it are increased, it will not be able to pay its actual operating expenses and will suffer severe financial losses and be compelled to assess its stockholders to meet its necessary expense. The Commission is therefore asked to establish an increased schedule of rates for both electric and water service which

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will yield sufficient revenues to provide for operating expenses, depreciation and a fair return upon the investment.

Public hearings, comprising six separate sessions, were held in Boulder Creek and San Francisco before Examiner Satterwhite, at which all interested parties were given an opportunity to be present and be heard.

The water system, as it exists at present, consists of three separate systems, formerly owned and operated by various individuals and corporations but now consolidated and operated under one management. The towns of Boulder Creek and Brookdale are supplied by two separate water systems, while Ben Lomond, Riverside Park and Glen Arbor are served by another. All systems are operated entirely by gravity, the water supply being obtained by diverting water from several small streams flowing into the San Lorenzo River.

Applicant owns approximately 900 acres of land at Boulder Creek, 600 acres at Brookdale and 45 acres at Ben Lomond. Only a part of the land at Boulder Creek and at Brookdale is necessary for the domestic water supply. In the Boulder Creek system there is a concrete storage reservoir 70 feet by 85 feet by 13 feet in dimension, and in Brookdale there are two concrete storage reservoirs, one 34 feet by 34 feet by 9 feet and the other 39 feet by 41 feet by 12 feet. These three reservoirs were originally installed for the purpose of generating electric energy at two power houses, but since 1918 they have not been used for that purpose.

The domestic storage facilities consist of several redwood tanks and small concrete reservoirs. The transmission and distribution system of Boulder Creek consists of 4675 feet of 6-inch cast-iron pipe and 9700 feet of standard screw pipe. Brookdale is supplied by approximately 40,000 feet of pipe lines, the major portion of which is two inches in diameter and smaller. Ben Lomond, Riverside Park and Glen Arbor are supplied by approximately 31,000 feet of pipe lines.

The rates charged for water service on the Boulder Creek system have never been established by the Commission, but were fixed by the former owners of the system and have been in effect for several years. They are as follows:

Water Rates—Boulder Creek.

For domestic service:	
Per 1000 gallons	$0 40
Minimum charge, per month	1 50
Meter rent, payable when meter is installed and service shut off, per month	50

The rates for water service now charged at Brookdale, Ben Lomond, Riverside Park and Glen Arbor were fixed by the Commission in

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Decision No. 5857, Application No. 4073, decided October 21, 1918, and are as follows:

Water Rates.

Schedule "A" (meter rates):	
For each meter installed and single payment made on account of same, minimum annual charge, for which 5000 cubic feet of water may be used at any time during the calendar year covered by the payment	$12 00
Additional water, per 100 cubic feet	20
Schedule "B" (flat rate):	
An annual charge, payable in advance	15 00
Schedule "C":	
Sprinkling roads, for each sprinkling cart using water from pipe lines of Mountain Light and Water Company, per year	100 00
Schedule "D":	
Fish hatcheries, an annual charge, payable September 1st	150 00

Rates now being charged by applicant for electric service at Brookdale were fixed by the Commission in Decision No. 5857, Application No. 4073, decided October 21, 1918.

Brookdale Electric Rates.

Schedule "A" (meter rates):	
Residence and household lighting service, including hotels and boarding houses of less than ten (10) rooms, per kilowatt hour	$0 10
Annual minimum, calendar year	15 00
Schedule "B" (meter rates):	
Commercial lighting, per kilowatt hour	10
Minimum calendar year:	
Hotels and boarding houses of 25 rooms and over, per annum	50 00
Hotels and boarding houses of 10 to 25 rooms, per annum	20 00
Commercial business places, including barber shops and bath houses, per annum	15 00
Schedule "C" (flat rate):	
Residence and household lighting service, applicable to small cottages, per calendar year	10 00
Under this schedule the company reserves the right at its option to install meters and charge the meter rate, with $10 annual minimum.	
Fish hatcheries, per annum	30 00

The rates now being charged by the applicant for electric service in Boulder Creek and Lorenzo were fixed by the former Boulder Creek Light and Water Company several years ago, and are as follows:

Electric Rates—Boulder Creek and Lorenzo.

Schedule "A" (metered service):	
For all energy consumed, per kilowatt hour	$0 10
Minimum charge, per meter per month	1 00
Schedule "B" (flat rate), per month	1 00

According to the applicant there are 114 water consumers at Boulder Creek, 184 at Brookdale, 131 at Ben Lomond and Riverside Park, and 19 at Glen Arbor, making a total of 448 water consumers, of which there are 96 metered services in Boulder Creek and 52 metered services in Ben Lomond. The remainder are all flat services.

The applicant claims the value of the Ben Lomond water system to be $12,417 and that of the Brookdale water system to be $17,319, based

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upon the depreciated reproduction cost as determined by the Commission in Application No. 4073, Decision No. 5857, to which subsequent additions and betterments have been added at the original cost as given by the applicant's books and accounts. The applicant valued the Boulder Creek water system at $27,949, which is the estimated original cost, including one-half of the watershed lands, comprising some 900 acres, and one-half of the flumes and reservoir road. The above figures do not include the power reservoirs at Boulder Creek and Brookdale, which are included in the valuation of the electric properties. This makes a total valuation of the water systems of $57,685. Another valuation of water systems was submitted on behalf of applicant by R. W. Hawley at one of the later hearings, based upon the report of Mr. M. R. MacKall, one of the Commission's hydraulic engineers, which had been submitted earlier in the proceedings. Mr. Hawley recommended the following additions to the findings of Mr. MacKall:

Ben Lomond: 45 acres of land valued at $4,500, addition	$2,450 00
Brookdale: water rights	600 00
South Power reservoir and pipe lines	4,168 00
Boulder Creek: 400 acres of land valued at $12,000, addition	7,000 00
Power reservoirs, etc.	12,547 00
Riparian rights below intake 15,000 feet at $1.00	15,000 00
Total additions	$41,765 00

Adding this to the appraisement of the Commission's hydraulic engineer, amounting to $47,578, the total value of the water system, according to Mr. Hawley's report, is $89,363.

Mr. MacKall made a field investigation of the water system and submitted a report and appraisal showing the estimated original cost of the water properties to be $47,578 as above, and recommending a replacement annuity, computed upon the 6 per cent sinking fund method of $495. The sum of $4,000 was estimated to be a reasonable allowance for the annual maintenance and operation expenses of the water systems of this utility.

The applicant estimated the future maintenance and operation expenses of the water system to be $5,449.50 and for the electric system to be $8,088.75. The difference in the valuation of the water system as submitted by Mr. Hawley and Mr. MacKall lies in the value and amount of watershed lands, including water and riparian rights, considered used and useful to the system, and in the power reservoirs at Boulder Creek and Brookdale, which were excluded in the report of the Commission's engineer.

A careful consideration of the evidence leads to the conclusion that the additional storage facilities provided by certain of the so-called power reservoirs perform some useful and necessary service to the

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communities served. However, the power reservoirs at Brookdale are not at present so connected with the distribution system as to be of maximum service value to the consumers. This connection will be provided for in the following order and allowance made in the estimated service value of the system for the useful portion of the reservoirs.

In view of the evidence presented in this matter, it is believed that the sum of $53,733, with a corresponding annual replacement fund of $548, represents the fair and reasonable service value of the water properties of this system for the purposes of this proceeding, and the amount of $4,000 is believed to be a fair allowance for the annual maintenance and operation expenses of the water system, which amount is believed to be ample to enable applicant to provide good and adequate service to all consumers. The above amounts presuppose the proper connection of the South Power reservoir at Brookdale with the distribution system in such a manner that the consumers will derive the full and reasonable value of the storage facilities afforded by this reservoir, and their use should be contingent upon such connection.

Following is a summary of the annual charges of the water system of this utility based upon the foregoing figures:

Annual Charges, Water System.

Return at 8 per cent on $53,733	$4,299 00
Replacement annuity	548 00
Maintenance and operation expense	4,000 00
Total annual charges (water)	$8,847 00
Water revenues for 1920	$7,553 00

Applicant requests that rates be established for Glen Arbor. This system is at present owned and operated by Mrs. Lawrence W. Coffee, and water is supplied by applicant under a written agreement. Authority to lease this system has never been applied for by or on behalf of applicant, nor granted by the Commission. For these reasons the schedule of rates given in the accompanying order does not apply to consumers in Glen Arbor.

The hydro-electric power plants formerly operated by applicant and predecessors are now nonoperative, all energy being purchased from the Coast Counties Gas and Electric Company. Only the distribution system of the electric properties is considered operative for the purposes of this proceeding. Mr. A. B. Daly, one of the Commission's electrical engineers, prepared a report and appraisement of the used and useful electrical properties, in which the estimated original cost as of December 31, 1920, amounted to $7,660, and the depreciation for this period, $268. This valuation was based upon the Commission's Decisions

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Nos. 2958 and 8008, supplemented by all subsequent additions and betterments. The average capital for the year 1921 was estimated to be $9,187 and the depreciation $277. The future maintenance and operation expenses were estimated to amount to $4,934 and the revenues for 1920 were given as $4,946. Applicant claimed that the future maintenance and operation expenses would be $8,089, and presented figures giving $5,022 as the revenues for the year 1920.

A careful consideration of the evidence leads to the conclusion that the estimates presented by the Commission's engineer are just and reasonable, and they will be used herein. It is the opinion of the Commission that proper service conditions and the normal growth of the communities served will result in the realization of increased revenues. Analysis of the testimony indicates that an increase in electric rates is not justified.

ORDER.

The Santa Cruz County Utilities, a public utility corporation, having applied to the Railroad Commission for an order fixing, adjusting and increasing its rates for the sale of water at Glen Arbor, Riverside Park, Ben Lomond, Brookdale and Boulder Creek, and authorizing an increase in its rates for the sale of electricity at Brookdale, Boulder Creek and Lorenzo, in Santa Cruz County, public hearings having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by the Santa Cruz County Utilities for water supplied to its consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established for water service are just and reasonable rates for such service; and that the rates and charges for electric energy now in effect are fair and reasonable rates for such service, and are adequately compensatory to the extent of earning proper operating expenses and a fair return upon the reasonable valuation of its properties.

And basing its order on the foregoing findings of fact and on the further statements of fact contained in the opinion preceding this order;

It is hereby ordered: (1) That the application of Santa Cruz County Utilities for authority to increase rates and charges for electric energy be and it is hereby denied.

(2) That Santa Cruz County Utilities be and it is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order the following rates for water delivered to its consumers in Boulder Creek, Brookdale, Ben Lomond and River-

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side Park, said rates to become effective for all service rendered after December 31, 1921:

Metered Water Rates.

Minimum annual charges payable in advance, which entitles consumer to a maximum of 500 cubic feet of water per month for a period of eight months	$12 00
All use during other months, 500 cubic feet or less per month	1 50
For use over 500 cubic feet:	
Next 9,500 cubic feet, per 100 cubic feet	25
Above 10,000 cubic feet, per 100 cubic feet	20

Flat Rates.

Annual charges, payable in advance	$15 00
Fish hatcheries, an annual charge, payable September 1	150 00
Road sprinkling, per year for each sprinkling cart using water from pipe lines of Santa Cruz County Utilities	100 00

(3) That Santa Cruz County Utilities be and it is hereby directed to install such necessary and proper connection or connections with the south reservoir at Brookdale and the distribution system that the consumers may derive the reasonable maximum service value from the reservoir, this improvement to be installed and in operation as soon as conditions will permit, but in no case later than December 31, 1921.

(4) That collection of the rates set out in the schedule herein authorized in Brookdale is expressly conditioned upon the improvement above ordered having been installed and in operation in a manner satisfactory to the Commission on or before December 31, 1921.

(5) That Santa Cruz County Utilities be and it is hereby directed to file with the Railroad Commission within thirty (30) days from the date of this order a complete schedule of rules and regulations governing the distribution and sale of water and electric energy to consumers supplied by it, said schedule to be effective on the date of its acceptance by the Commission.

Dated at San Francisco, California, this seventeenth day of November, 1921.

DECISION No. 9764.

IN THE MATTER OF THE APPLICATION OF THOR BORRESEN FOR A CERTIFICATE OF PUBLIC CONVENIENCE TO SELL AND DISTRIBUTE WATER IN TRACT NO. 3901, IN LOS ANGELES COUNTY.

Application No. 6947.

Decided November 17, 1921.

Thor Borresen, in propria persona.
H. T. Robinson, for Ocean Park Heights Land and Water Company

BY THE COMMISSION.

OPINION.

In this proceeding applicant asks that a certificate of public convenience and necessity be granted permitting him to supply water for

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domestic purposes in Tract No. 3901, a new subdivision located between Culver City and Venice, in Los Angeles County. A public hearing was held in Los Angeles before Examiner Williams, of which all interested parties were notified and given an opportunity to be present and be heard.

Applicant testified that he had been operating a water system in the tract referred to since May, 1921, furnishing water only to purchasers of property therein; that at present there are six consumers being supplied at a flat rate of $1.50 per month; that he has a verbal agreement with the owners of the tract, whereby he is to operate the system and in consideration is to receive, in addition to the revenues from the sale of water, title to the water system and the property upon which the pumping plant is situated, on October 10, 1927.

The applicant further testified that he had had no previous experience in the operation of water systems and that he depended upon the revenues from the sale of water to defray all expenses in connection with its operation.

There was no evidence presented to show the owners of the tract and water system had entered into an agreement with the applicant other than the statement that he had a verbal agreement with L. L. Robinson, one of the owners of the tract.

The Ocean Park Heights Land and Water Company appeared to oppose the granting of this application on the ground that this district should be served by it, as the tract immediately adjoins that company's service area on two sides and there has been developed an ample water supply to serve the entire territory. The company is, however, unwilling to extend its mains to serve Tract No. 3901 in accordance with its rules and regulations filed with this Commission.

It would appear that this application should be denied on the ground that applicant herein holds no title or interest in the water system, nor did he present any evidence to show that the actual owners of the plant would be in any way responsible for its continued operation.

Should the owners of the water system make application for a certificate of public convenience and necessity such application will receive due consideration.

ORDER.

Thor Borresen having made application as entitled above, a public hearing having been held thereon and the matter having been submitted:

It is hereby found as a fact that the applicant herein has not shown that he is the owner of the water system serving the territory for which the certificate is desired, nor has any showing been made as to responsibility for the continued operation of the plant.

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And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion preceding this order;

It is hereby ordered, that the application be and it is hereby denied without prejudice.

Dated at San Francisco, California, this seventeenth day of November, 1921.

DECISION No. 9765.

CITY OF SAN BUENAVENTURA

vs.

SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION.

Case No. 1461.

Decided November 17, 1921.

Don C. Bowker, H. F. Orr and *L. C. Drapeau*, for Complainant.
Robert M. Clarke and *D. W. Cunningham*, for Defendant.

BY THE COMMISSION.

OPINION.

This is a complaint made by the city of San Buenaventura, commonly known as the city of Ventura, against the Southern California Edison Company, which supplies water for domestic and irrigation purposes to consumers in and in the vicinity of the city.

It is alleged that the water furnished by defendants is unfit for use, due to the fact that unfiltered, impure surface water from the Ventura River is allowed to flow into the mains, and that the pipe system has become foul and infested with animal life. It is also alleged that the supply furnished is inadaquate because of the use by defendant of a single pipe line of insufficient capacity for the supply of water for both irrigation and domestic use.

Complainant therefore asks that defendant be required to filter all water supplied within the city, or to secure all water from underground sources which are free from contamination; that defendant be restrained from turning any of the surface flow of the Ventura River into its mains; that defendant be required to provide separate pipes, of adequate capacity, for the supply of water for domestic and irrigation purposes, and to install proper facilities for the elimination of objectionable matter from its pipe system.

Defendant's answer to the foregoing complaint alleges that since defendant became the owner of this system in November, 1917, it has made extensive improvements thereto for the purpose of providing an adequate and potable supply of water and that additional improvements are under construction.

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Public hearings were held in the above entitled matter, before Examiner Satterwhite at Ventura, at which all interested parties were given an opportunity to be present and be heard. At these hearings five proceedings, Applications Nos. 5104 and 5949, and Cases Nos. 1257, 1455 and 1461 were consolidated and it was stipulated that the testimony introduced in any proceeding might be considered in the others. However, due to the diversity of the matters involved it has been considered advisable to render separate decisions.

It appears from the testimony presented that at the time this complaint was filed, water for domestic and industrial purposes for use in the city of Ventura and for irrigation use along Ventura avenue was delivered through one main pipe line, and that the water delivered over a considerable area within the city was discolored and contained sediment, vegetable matter, and some animal life in the form of fish and eels.

After the filing of this complaint and before these hearings were held, defendant completed and put into operation a pumping plant on the Ventura River at Gosnell Hill, which now supplies water for irrigation purposes to approximately 70 per cent of the lands along Ventura avenue which receive water from defendant's system. The capacity of this plant is seventy-five miner's inches, and its installation and operation will increase the supply of underground water available for use in the city by the quantity of water furnished by it for irrigation along Ventura avenue.

In June, 1920, defendant put into operation a filtering device through which all water entering the mains has been passed. The device consists of two 30-inch pipes packed with coarse stones, gravel and charcoal. Testimony indicates that the water is made clear by passing through this filter, even at times of high water when the stream is muddy. Defendant has also placed screens over the intake pipe lines at Casitas to prevent the ingress of fish and debris.

During the latter part of 1918 and the first part of 1919 a chlorinating plant was installed at the intake of the water system on the Ventura River, and all surface water taken into the pipe lines is now treated with chlorine and thus rendered safe for domestic use. Samples of the water furnished in the city of Ventura are sent monthly to the State Board of Health for analysis. Results of the analyses thus made, covering one year previous to these hearings, were introduced in evidence and, without exception, indicate that the water is safe for human consumption.

Testimony was introduced by defendant to the effect that a reservoir would be constructed at a high level above the city, and that a booster pumping plant would be installed on the Ventura avenue main, to be

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used for increasing pressures, in case of fire and during other periods of abnormal demand. Defendant's closing brief states that the installation of this reservoir and the booster pumping plant has been completed.

It is apparent that defendant has done much to improve the conditions which resulted in inadequate service and an unwholesome water supply. However, further improvements are necessary in order that satisfactory service can be rendered, and the following order will provide for their installation.

ORDER.

The city of San Buenaventura having made complaint in the above entitled proceeding, public hearings having been held thereon, and the matter having been submitted:

It is hereby found as a fact that by the installation of improvements to its water system defendant is now able to render such service to its consumers within the city of San Buenaventura as to remedy many of the causes of complaint, but that, in order to furnish an adequate and satisfactory supply, certain other improvements are necessary;

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion preceding this order;

It is hereby ordered, that Southern California Edison Company be and it is hereby directed to begin at once and to proceed diligently to complete the construction of a pipe line, of adequate size and capacity, from the weir box near Canets to its balancing reservoirs, and to deliver to the reservoirs, through this pipe line, all water destined for use in the city of San Buenaventura, and from these reservoirs directly to the Ventura avenue pipe line; and

It is hereby further ordered, that the intake of the present pipe line leading from the balancing reservoirs to the Ventura avenue pipe line be covered with a screen to prevent the ingress of debris or other objectionable matter; and

It is hereby further ordered, that suitable provision be made for the flushing of mains in the city of San Buenaventura, at low points in the pipe lines and such other points as may be necessary, in order that the mains may be kept clean and free of vegetable or other objectionable matter; and

It is hereby further ordered, that Southern California Edison Company be and it is hereby directed to file with the Railroad Commission of the State of California for its approval, within twenty (20) days from the date of this order, detailed plans and specifications covering the construction of the improvements to its system herein ordered.

Dated at San Francisco, California, this seventeenth day of November, 1921.

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DECISION No. 9766.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AUTHORITY TO PURCHASE CERTAIN SECURITIES OF SANTA BARBARA ELECTRIC COMPANY, AND TO ACQUIRE THE PROPERTIES AND FRANCHISES OF SANTA BARBARA ELECTRIC COMPANY, AND OF SANTA BARBARA ELECTRIC COMPANY TO SELL ITS PROPERTIES AND FRANCHISES TO SOUTHERN CALIFORNIA EDISON COMPANY.

Application No. 7240.

Decided November 17, 1921.

Roy V. Reppy and *Wm. G. Griffith*, for Applicants.

BENEDICT, *Commissioner.*

OPINION.

Santa Barbara Electric Company asks permission to sell and convey to Southern California Edison Company all of its business, franchises and properties, more particularly described in Exhibit "A" attached hereto.

Southern California Edison Company, hereinafter referred to as the Edison Company, joins in the application and asks permission to acquire the business, franchises and properties, to assume all the debts and liabilities of Santa Barbara Electric Company and to pay Santa Barbara Electric Company, on or before July 1, 1941, the sum of $682,634.50, with interest at the rate of 7.04 per cent per annum.

The Edison Company further asks permission to purchase 635 shares of the common stock of Santa Barbara Electric Company for $70.50 a share.

Santa Barbara Electric Company, which is engaged in the business of generating, transmitting and distributing electric energy in Santa Barbara County, was organized during the month of August, 1909, with an authorized capital stock of $1,000,000, divided equally, into preferred and common stock. Of the authorized stock, $400,000 (4000 shares) of 6 per cent preferred and $400,900 (4009 shares) of common stock are at present issued and outstanding. The record shows that the Edison Company owns, and has owned since the organization of the Santa Barbara Electric Company, all of the outstanding preferred stock and $337,400 of the outstanding common stock, and that by reason of such stock ownership, Santa Barbara Electric Company has been operated for many years substantially as a subsidiary of the Edison Company.

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In Exhibit "3" applicants report the original cost of the properties to be transferred as of August 31, 1921, at $1,595,979.72 as follows:

Capital assets as shown by balance sheet		$1,729,143 48
Deduct amount included in intangible capital which does not represent actual cash expenditure		376,598 48
Net capital assets		$1,352,545 00
Current assets		227,179 94
Deferred assets	$97,529 40	
Less unamortized discount on securities and expense	81,274 62	
		16,254 78
Total original cost		$1,595,979 72

The indebtedness to be assumed by the Edison Company is reported in Exhibit "A", as of August 31, 1921, as follows:

First mortgage bonds	$750,700 00
Notes payable	265,000 00
Accounts payable	41,163 80
Total indebtedness	$1,056,863 80

In addition to assuming indebtedness of $1,056,863.80, the Edison Company has agreed to pay to the Santa Barbara Electric Company for its properties on or before July 1, 1941, the sum of $682,634.50, with interest at the rate of 7.04 per cent per annum. Reference will hereafter be made to this payment.

The Edison Company owns all but 635 shares ($63,500) of the outstanding stock of the Santa Barbara Electric Company. The Edison Company has offered to purchase the 635 shares of stock at $70.50 per share. In arriving at the $70.50 per share, the Edison Company has assumed the payment of a 6 per cent dividend on the Santa Barbara Electric Company common stock. A 6 per cent dividend on such stock purchased at $70.50 per share is the equivalent of an 8 per cent dividend on the Edison Company common stock purchased at 94. The Edison Company is now paying an 8 per cent dividend on its common stock and is selling such stock at 94.

The Santa Barbara Electric Company has heretofore paid only a 4 per cent dividend on its common stock.

It is urged that the offer of the Edison Company to the minority stockholders of the Santa Barbara Electric Company is entirely fair for the reason that it is based upon a 6 per cent dividend, whereas the company has been paying but a 4 per cent dividend. It should be understood that by granting this application the Commission in no way becomes responsible for the dividends paid by the Santa Barbara Electric Company. Any interest paid by the Edison Company on the $682,634.50, as all other interest paid by the company, must come out of the allowance for a fair return.

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The $682,634.50 which the Edison Company has agreed to pay for the properties of the Santa Barbara Electric Company on or before July 1, 1941, is the equivalent of the $400,000 of outstanding preferred stock taken at par and the $400,900 of common stock taken at the rate of $70.50 per share. To acquire the minority stock of the Santa Barbara Electric Company, the Edison Company will have to spend $44,767.50. If it acquires all of the minority stock, it will in effect owe the $682,634.50 to itself. If it acquires none of the minority stock, the $44,767.50 will eventually, assuming liquidation to take place on the basis of this application, be distributed to the stockholders, leaving $637,867 for the Edison Company.

As stated, the Edison Company now owns $400,000 of the preferred and $337,400 of the common stock of the Santa Barbara Electric Company. On December 31, 1920, this stock was carried on the books of the Edison Company at a value of $485,025, the preferred stock being valued at par and the common at $85,025. If we assume that the value of the Santa Barbara Electric Company stock, as carried on the books of the Edison Company on December 31, 1920, represents the cost of that stock to the Edison Company, it follows that the Edison Company will pay considerably less than the present outstanding indebtedness of the Santa Barbara Electric Company plus the $682,634.50 for the properties. Adding to the $485,025—the reported value of the Santa Barbara Electric Company stock—the $44,767.50 which the Edison Company will have to expend to acquire the minority stock, makes a total of $529,792.50. The indebtedness to be assumed aggregates $1,056,863.80, which added to the $529,792.50, makes a total of $1,586,656.30, which is the net cost to the Edison Company of the Santa Barbara Electric Company properties. This net cost is approximately equal to the estimated historical cost of the properties as reported by applicants.

A. E. Morphy, secretary of the Edison Company, testified that in his opinion the transfer of the properties as proposed will result in economies through the elimination of the expense of maintaining separate accounting and operating organizations. Some reductions in rates, he reports, should likewise and will follow the transfer of the properties.

As a result of the proposed transfer, the Edison Company will acquire the right to operate under two electric franchises now owned by the Santa Barbara Electric Company. One franchise was granted by the city of Santa Barbara in November, 1886, for a term of 50 years, the other was granted by the county of Santa Barbara on July 3, 1920, for a term of 50 years.

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I herewith submit the following form of order:

ORDER.

Application having been filed with the Railroad Commission involving the sale of stock and properties of Santa Barbara Electric Company to Southern California Edison Company, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted;

It is hereby ordered, that Santa Barbara Electric Company be and it is hereby authorized to sell and convey, for $682,634.50, subject to the existing indebtedness and liabilities, all of its properties more particularly described in Exhibit "A," attached hereto, and Southern California Edison Company be and it is hereby authorized to acquire for $682,634.50 said properties and to assume the payment of all the indebtedness and liabilities of Santa Barbara Electric Company, such transfer of property to be subject to the terms and conditions set forth in this application.

It is hereby further ordered, that Southern California Edison Company be and it is hereby authorized to enter into an agreement, substantially in the same form as the agreement filed November 9, 1920, in this proceeding, in which agreement the Southern California Edison Company agrees to pay to Santa Barbara Electric Company the sum of $682,634.50 on or before July 1, 1941, with interest at the rate of 7.04 per cent per annum.

It is hereby further ordered, that Southern California Edison Company be and it is hereby authorized to purchase 635 shares of the common stock of the Santa Barbara Electric Company for not more than $70.50 a share.

The authority herein granted is subject to the following conditions:

1. The price at which the properties of Santa Barbara Electric Company are transferred to Southern California Edison Company shall not be binding on this Commission or upon any other public body as representing the value of said properties for rate making or any purpose other than the transfer herein authorized.

2. Within thirty days after the transfer of the properties herein authorized, Southern California Edison Company shall advise the Commission of the exact date of the transfer and shall file with the Commission a verified copy of the deed under which it obtains title to the properties.

3. The authority herein granted will not become effective until Southern California Edison Company has paid the fee prescribed by section 57 of the Public Utilities Act.

4. The authority herein granted will apply only to such transfer of properties as shall be made on or before March 1, 1922.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of November, 1921.

EXHIBIT A.

The properties which Santa Barbara Electric Company (party of the first part) is authorized to sell to Southern California Edison Company (party of the second part) consists of the following—(Description from Exhibit B filed in Application No. 7240):

All of those certain lots, pieces and parcels of land, situate, lying and being in the county of Santa Barbara, State of California, more particularly described as follows:

Santa Barbara Steam Plant.

Parcel No. 1.

That part of block 309½ of the city of Santa Barbara, as shown upon the Haley and Wackenreuder maps of said city on file in the office of the city clerk of said city, described as follows:

Beginning at the most easterly corner of said block 309½, thence northwesterly along the southwesterly line of Castillo street 200 feet; thence southwesterly parallel with the northwesterly line of Mason street 450 feet to the northeasterly line of Rancheria street; thence southeasterly along said northeasterly line of Rancheria street 200 feet to the most southerly corner of said block 309½; thence northeasterly along said northwesterly line of Mason street 450 feet to point of beginning.

Excepting that portion of said block 309½ described as follows:

Beginning at the most easterly corner of said block 309½; thence northwesterly along the southwesterly line of Castillo street 175 feet; thence southwesterly parallel with the northwesterly line of Mason street 125 feet to a point which is the point of beginning of the boundary of the tract herein described; thence northeasterly parallel with said northwesterly line of Mason street 125 feet to said southwesterly line of Castillo street; thence northwesterly along said southwesterly line of Castillo street 25 feet; thence southwesterly parallel with said northwesterly line of Mason street 450 feet to the northeasterly line of Rancheria street; thence southeasterly along said northeasterly line of Rancheria street 200 feet to the most southerly corner of said block 309½; thence northeasterly along said northwesterly line of Mason street 145 feet; thence northwesterly parallel with said northeasterly line of Rancheria street 83 feet; thence northerly in a straight line 202.15 feet, more or less, to said last mentioned point of beginning.

Warehouse and Garage.

Parcel No. 2.

That portion of block 173 and of block 191 of the city of Santa Barbara and of the street known as De la Guerra street, as the same are shown on map of survey made by Salisbury Haley, and the map of said city prepared by Vitus Wackenreuder, both of which maps are on file in the office of the city clerk of said city, described as follows:

Beginning at the most northerly corner of block 191 as shown on said maps; thence southeasterly along the southwesterly line of Santa Barbara street 165 feet; thence at right angles southwesterly and parallel with De la Guerra street 175 feet; thence at right angles northwesterly and parallel with Santa Barbara street 165 feet to the northwesterly line of block 191 as shown on said maps; thence northeasterly along said northwesterly line of block 191, 75 feet to a point distant 100 feet southwesterly from the point of beginning; thence northwesterly crossing said De la Guerra street and into said block 173 on a course parallel with the south-

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westerly line of Santa Barbara street 82 feet, more or less, to a point on the southeasterly line of new De la Guerra street in said city, as established and located upon the ground, which point is distant 100 feet southwesterly along said line from the southwesterly side of Santa Barbara street; thence northeasterly along said southeasterly line of new De la Guerra street 100 feet to its intersection with said southwesterly line of Santa Barbara street; thence southeasterly along said line of Santa Barbara street and its prolongation 82 feet, more or less, to the place of beginning.

Also that portion of block 173 and of old De la Guerra street, as said street and block are shown on the Wackenreuder map of the town of Santa Barbara (now city of Santa Barbara), and filed in the office of the city clerk of said city of Santa Barbara, and now being a portion of block No. 191, as shown upon the official map of said city, described as follows:

Commencing at a point on the southeasterly line of new De la Guerra street, distant thereon 100 feet southwesterly from the southwesterly line of Santa Barbara street, as said streets are now shown and delineated upon the official map of said city; thence running southwesterly along said southeasterly line of new De la Guerra street 58.31 feet; thence at right angles southeasterly 82 feet; thence at right angles northeasterly 58.3 feet; thence at right angles northwesterly 82 feet to the said southeasterly line of new De la Guerra street, the point of beginning.

Planing Mill and Vacant Lots.

Parcel No. 3.

All of lots 11, 25 and 30, and those portions of lots 8 and 10 of the subdivision of block 304 of said city of Santa Barbara, made December 16, 1872, by J. L. Barker, town surveyor, filed December 28, 1872, in the office of the recorder of said county and now of record in book 1, page 3 of maps and surveys, in the office of said recorder, which lie northerly of the northerly line of the right of way of the Southern Pacific Railway Company across said block 304 as said right of way was conveyed to said company by deed from William H. McCaleb, recorded in book 100, page 111 of deeds, records of said county of Santa Barbara.

Carpinteria Substation.

Parcel No. 4.

All of that certain lot in the county of Santa Barbara, and bounded and particularly described as follows:

Beginning at a point in the middle line of a lane or road at the most westerly corner of the tract of land described in the deed from Albert Espinosa to Jose Jesus Cota, recorded March 23, 1876, in book "P" at page 493 of deeds, records of said county; thence along the middle line of said lane or road south 26¾ degrees west, 1.20 chains; thence south 63¾ degrees east, 4.17 chains, more or less, to the easterly line of Survey No. 64, made for Albert Espinosa on September 23, 1857, according to the field notes thereof on file in the office of the county surveyor of said county; thence along said easterly line north 22¼ degrees east, 1.30 chains, more or less, to the most southerly corner of the tract described in the deed to Jose Jesus Cota, above mentioned; and thence north 63¾ degrees west, 4.05 chains, more or less, to the point of beginning.

Franchises.

Also the following franchise to use and occupy public streets, highways, and other public places, for the purpose of distributing electrical energy:

1. That certain franchise of the right, for a period of fifty years, to erect and maintain poles upon and to run wires over and along the public streets, alleys and highways within the county of Santa Barbara, in the State of California; also to construct and maintain upon said streets, alleys and highways, underground conduits for the purpose of carrying, furnishing and distributing electricity and electrical energy and for lighting, motive power, engines, motors, elevators and for any other purpose for which electricity can be used; which franchise was by the board of supervisors of said Santa Barbara County, by its ordinance duly adopted on the third day of July, 1900, granted unto the United Electric Gas and Power Company.

2. All rights of party of the first part, arising under and by virtue of section 19, article XI of the Constitution of the State of California, as adopted November 4, 1884, to use all public streets and thoroughfares of the city of Santa Barbara

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for the business of distributing electric energy as a public utility, for the purpose of introducing into and supplying said city and its inhabitants electric energy to be used for the purpose of illumination.

Together with all appurtenances of all of the hereinbefore described property, all power houses, distributing stations, substations, transformer stations, lightning arresters, houses, repair shops and other buildings; all conduits and other transmission and distributing lines and systems; all boilers, engines, pumps, generators, dynamos, transformers, regulators, exciters, switchboards, poles, wires, insulators, cross-arms, meters, pipes, and other apparatus, machinery, appliances, tools, furniture and other personal property used or acquired or held for use in connection with the generating plants, transmission lines or distributing systems of the party of the first part, or any thereof; including horses, wagons and automobiles; all tolls, revenues, earnings, income, rents, issues and profits; and also all of the estate, rights, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the party of the first part, of, in and to the above described premises, properties, interests and rights and every part and parcel thereof, with the appurtenances, and the franchises appertaining thereto; also all bonds, shares of stock, notes, securities and other obligations owned by the party of the first part; also all rights and contracts to sell or furnish electric light and power, business and good will, and all rights and consents to construct and maintain electric lines, mains, wires, subways and conduits for conveying electricity for power, lighting and other purposes, through, under and over public streets, public highways or public places, held, owned or enjoyed by party of the first part, and all franchises, ordinances, licenses, agreements, contracts, rights, easements, rights of way, leases and leasehold interests, grants, privileges and immunities, and all other property wheresoever situated, real, personal, and mixed, of every kind, nature and description, owned, held, possessed or enjoyed by, or in any manner conferred upon, or appertaining to the party of the first part; and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; it being the intention hereby to convey, and this indenture does convey, the business, franchises and property of the party of the first part, as a whole, of all kinds and wheresoever situated, to the party of the second part.

All of the properties hereinabove described, however, are sold and conveyed to said party of the second part subject to the lien of that certain first mortgage dated July 1, 1916, executed by the party of the first part (then known as Santa Barbara Gas and Electric Company) to Los Angeles Trust and Savings Bank, trustee, which said mortgage is recorded in book 79, page 331 of mortgages, in the office of the county recorder of Santa Barbara County. All indebtedness for which said first mortgage is security, is hereby assumed by said party of the second part, and said party of the second part hereby agrees to make due and punctual payment of the same and every part thereof, and the principal and interest of all the bonds secured by said first mortgage, according to their tenor, and to make due and punctual performance of all of the covenants and conditions of said first mortgage to be kept and performed by said party of the first part herein. Said properties are also conveyed subject to all outstanding debts and liabilities of the party of the first part, which debts and liabilities are hereby assumed by the party of the second part.

DECISION NO. 9768.

J. C. BARNARD

vs.

SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION.

Case No. 1455.

Decided November 17, 1921.

Don C. Bowker, H. F. Orr, and *L. C. Drapeau,* for Complainants.
Robert M. Clarke and *D. W. Cunningham,* for Defendant.

BY THE COMMISSION.

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OPINION.

This is a complaint made by J. C. Barnard and forty-one other individuals and corporations against Southern California Edison Company, which supplies water to complainants in Ventura Valley, northerly from the city of Ventura, along Ventura avenue.

It is alleged that defendant furnishes water for irrigation purposes to approximately 260 acres of citrus fruits and at least 540 acres of apricots, walnuts, beans and gardens; that water for use by complainants and other consumers for domestic and irrigation purposes is conveyed through a single pipe line which, together with other facilities used by defendant, is of inadequate capacity to furnish a sufficient quantity of water for efficient and economical irrigation; and that complainants are frequently unable to secure water for domestic use.

The Commission is asked to order defendant to install adequate facilities for the distribution of water to complainants.

The city of Ventura intervened in this case, because of the fact that consumers within the city are supplied through the same pipe line as complainants, and that the city would necessarily be affected by any order made in the matter granting relief to complainants herein, unless the order provided for a general improvement to the system.

Defendant's answer to the foregoing complaint alleges, among other things, that a pumping plant is being installed for the purpose of furnishing better service to irrigators.

Public hearings were held in the above entitled matter before Examiner Satterwhite at Ventura, at which all interested parties were given an opportunity to be present and be heard. At these hearings five proceedings, Applications Nos. 5104 and 5949, and Cases Nos. 1257, 1455 and 1461 were consolidated and it was stipulated that the testimony introduced in any proceeding might be considered in the others. However, due to the diversity of the matters involved it has been considered advisable to render separate decisions.

After the filing of this complaint and before the hearings were held, defendant had completed and put into operation a pumping plant on the Ventura River at Gosnell Hill, which now supplies water for irrigation use to approximately 70 per cent of the lands along Ventura avenue which receive water from defendant's system. The capacity of the plant is 75 miner's inches and its operation was commenced about August 1, 1920. Since that date the ranchers along Ventura avenue have been furnished with all the water for irrigation purposes they desired, with the exception of John McFarlane and A. Vince, who still allege that they are not receiving satisfactory service. It was shown, however, that they were sharing water with their neighbors. It is reasonable to expect that a full head would give them adequate service.

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Objection was made to the quality of the water furnished on the grounds that companies drilling for oil along the Ventura River above the pumping plant were discharging salty water into the stream, which, after mixing with the river water, is pumped and delivered to the lands of consumers and leaves a white deposit on the ground irrigated. The law affords adequate protection against pollution of the streams, and defendant has pledged itself to see that no further injury to irrigationists results from this cause.

It appears that the recently installed Gosnell Hill pumping plant is not of sufficient capacity to supply all of the ranchers with water simultaneously, and it is recommended that a rotation schedule of deliveries be established by defendant to provide for an equitable distribution of water during periods of peak demand.

It is evident that the steps taken by defendant to increase its water supply have so improved service to the irrigators along Ventura avenue that the causes for complaint have been eliminated.

ORDER.

J. C. Barnard and others, having made complaint in the above entitled proceeding, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the complaint herein has been satisfied.

And basing the order upon the foregoing finding of fact and upon the further statements of fact contained in the opinion preceding this order;

It is hereby ordered, that the complaint in the above entitled matter be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this seventeenth day of November, 1921.

DECISION No. 9771.

IN THE MATTER OF THE APPLICATION OF W. W. LEE, OF THE NORTH GLENDALE DISTRIBUTING COMPANY, FOR PERMISSION TO SELL AND TRANSFER WATER MAIN AND PIPE TO THE CITY OF GLENDALE, AND FOR CANCELLATION OF FRANCHISE.

Application No. 7265.

Decided November 17, 1921.

BY THE COMMISSION.

ORDER.

W. W. Lee having made application to this Commission for authority to sell, to the city of Glendale, for the sum of $860, a certain water system known as the North Glendale Distributing Company, more

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particularly described in Appendix "A", attached hereto and made a part hereof;

And it appearing that all consumers now served by this water system will be taken over and supplied by the city of Glendale;

And it further appearing that this is not a matter in which a public hearing is necessary and that the application should be granted;

It is hereby ordered, that W. W. Lee be and he is hereby authorized to sell and transfer to the city of Glendale a certain water system known as the North Glendale Distributing Company, more particularly described in Appendix "A", attached hereto and made a part hereof, and thereafter to discontinue public utility service, subject to the following conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before February 1, 1922, and a certified copy of the instrument of conveyance shall be filed with this Commission by said W. W. Lee within thirty (30) days from the date on which it is executed.

2. Within ten (10) days from the date on which W. W. Lee actually relinquishes control and possession of the properties herein authorized to be sold, said W. W. Lee shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

3. The consideration given for the transfer of this water system shall not be urged before this Commission or any other public body as a finding of value of the property for rate fixing or for any purpose other than the transfer herein authorized.

Dated at San Francisco, California, this seventeenth day of November, 1921.

APPENDIX "A".

Schedule of property of W. W. Lee, of the North Glendale Distributing Company, to be transferred to the city of Glendale:

On Park Avenue:
480 linear feet of 2-inch standard screw pipe.

On Melrose Avenue:
1590 linear feet of 2-inch standard screw pipe.

On alley west of Viola Street:
1080 linear feet of 2-inch standard screw pipe.

On alley west of Central Avenue:
858 linear feet of 2-inch standard screw pipe.

On Loraine Street:
200 linear feet of 2-inch standard screw pipe.

Feeder line:
1600 linear feet of 6-inch riveted steel pipe, together with all valves, fittings, service cocks, services, meters, and other appurtenances attached thereto.

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DECISION No. 9777.

IN THE MATTER OF THE APPLICATION FOR REHEARING OF HIGHLAND DOMESTIC WATER COMPANY FOR AUTHORITY TO INCREASE ITS WATER RATES.

Application No. 4888.

IN THE MATTER OF THE APPLICATION OF HIGHLAND DOMESTIC WATER COMPANY FOR AUTHORITY TO INCREASE ITS WATER RATES.

Application No. 6732.

Decided November 18, 1921.

Wm. Guthrie, for Applicant.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Highland upon above entitled applications, involving rates for water service for domestic and irrigation purposes in and about Highland, San Bernardino County.

By Decision No. 7545 of May 10, 1920, the Commission granted an increase in rates, upon Application No. 4888. The company filed an application for rehearing upon the ground that the rate base upon which rates were computed did not include suitable allowance for land or development work in an effort to procure a water supply, nor suitable allowance for working capital.

Meanwhile, a new application for authority to increase rates was filed.

At the hearing, both matters were consolidated for hearing and decision.

Attached to the new application is a brief statement showing the cost of the system as of December 31, 1920, as claimed by applicant, to have been $38,501.90, including $2,500 for working capital. A similar statement is attached to the amended application, filed by leave after the hearing, showing the total as $42,215.35, including working capital, $1,500, and meters proposed to be installed subsequent to the hearing, $460.50. Applicant's records of costs were burned several years ago. It presented no engineering testimony.

Mr. M. E. Ready, one of the Commission's hydraulic engineers, presented at the above hearing his appraisal of the system, showing his estimate of original cost to be $35,725. At the hearing, however, applicant presented further testimony not previously produced, showing actual cost of land and approximate cost of drilling wells before the company was successful in obtaining a good supply of water. As a result, he prepared revised estimates of costs after the hearing, which are adopted by the Commission in fixing the rate base at $40,426.

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This includes $500 for working capital, which we consider ample in view of the fact that the metered sales in 1920 amounted to only about $200 per month. He has made no allowance for meters to be installed in the future, as the actual number is not known and the date of installation not fixed.

Reasonable annual charges, based upon the foregoing figures, are as follows:

Return on $40,426 at 8 per cent	$3,234 00
Depreciation annuity	486 00
Maintenance and operating as claimed for 1920	3,239 00
Total	$6,959 00

As applicant's gross revenue is $5270.59, it is apparent that the company is entitled to an increase in rates, and the rate schedule set out in the accompanying order is designed to produce a fair and remunerative revenue.

ORDER.

Highland Domestic Water Company having applied to the Railroad Commission for authority to increase its rates for water, a public hearing having been held, the matter being submitted and now ready for decision:

It is hereby found as a fact that the rates and charges of the Highland Domestic Water Company, in so far as they differ from the rates herein established, are unjust, unreasonable and unremunerative, and that the rates and charges herein established are just and reasonable rates.

And basing its order upon the foregoing finding of fact and upon the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that the Highland Domestic Water Company be and it is hereby authorized to file with the Railroad Commission within twenty (20) days from the date of this order, the following schedule of rates, to be charged for all service rendered subsequent to December 1, 1921:

Monthly Flat Rates.

For each family of not more than 5 persons	$1 50
For each extra member in family above 5	10
For each head of stock kept by private family	25
For each automobile	25
Each bath tub in private house	25
Each water closet in private house	35
Small stores and business offices	2 00
Large stores and business offices employing 4 or more persons	2 50
Offices	75
Stores having soda water fountains, extra	1 50
Dentists' offices	1 50
Public watering troughs	1 50
Barber shop, one chair	1 50

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Each additional chair	$0 75
Public bath tubs, each	3 00
Public water closets or urinals, each	1 75
Wagon and blacksmith shops, not more than 2 forges	2 50
Each additional forge	50
Lodge or meeting rooms	2 50
Restaurants, coffee houses or saloons	4 00
Lawns of fifty square yards or less	25
Each additional square yard	005
Tents	1 00
Water carts for street sprinkling, payable monthly, each cart ——per day	1 00

Monthly Meter Rates.

First 2000 cubic feet, per 100 cubic feet	$0 30
Next 3000 cubic feet, per 100 cubic feet	25
Next 5000 cubic feet, per 100 cubic feet	20
All in excess of 10,000 cubic feet, per 100 cubic feet	15

Minimum Monthly Charges.

For each ⅝-inch meter	$1 25
For each ¾-inch meter	1 50
For each 1-inch meter	1 75
For each 1½-inch meter	2 50
For each 2-inch meter	4 00

It is hereby further ordered, that the Highland Domestic Water Company be and it is hereby directed to file with the Railroad Commission within thirty (30) days from the date of this order, rules and regulations governing the distribution of water to its consumers, said rules and regulations to become effective upon their acceptance for filing by the Commission.

Dated at San Francisco, California, this eighteenth day of November, 1921.

Decision No. 9778.

IN THE MATTER OF THE APPLICATION OF MARIPOSA COMMERCIAL AND MINING COMPANY FOR PERMISSION TO SELL ITS ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM AND OF SAN JOAQUIN LIGHT AND POWER CORPORATION TO PURCHASE THE SAME.

Application No. 7326.

Decided November 18, 1921.

ELECTRIC UTILITY—FLAT RATES.—In permitting the San Joaquin Light and Power Corporation to acquire the electric transmission and distribution system of the Mariposa Commercial and Mining Company, the meter rates of the former utility for the territory to be served were approved by the Commission, which held that flat rates are not fair and just as between individual consumers.

BY THE COMMISSION.

OPINION.

This is the joint application of Mariposa Commercial and Mining Company for permission to sell, and San Joaquin Light and Power Corporation for permission to buy, the electric distribution system of

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the former company in the town of Mariposa and its transmission line from Bagby to Mariposa.

The Mining Company has in the past maintained a small generating plant for the operation of its mining properties and in connection therewith has carried on the public utility business of distributing electricity to a comparatively small number of consumers in Mariposa and vicinity. The dam across the Merced River in connection with the Mining Company's power plant has been destroyed and the plant can not be operated until extensive repairs are made. The business has not been a profitable one from the point of view of the Mining Company and it has therefore made arrangements for the taking over of its distribution system and consumers by San Joaquin Light and Power Corporation. As this latter company now operates an extensive transmission and distribution system and is in a position to give much better service than was the Mining Company, it appears to be highly desirable that the proposed transfer be made.

The Mining Company has in the past charged its consumers for energy on a flat rate basis, but the San Joaquin Company proposes to install meters and charge the same schedule of rates that is now in effect upon its present system and which has been approved by this Commission. These rates have been found by the Commission to be fair and reasonable in territory similar to and adjacent to that heretofore served by the Mining Company. Flat rates are not just and fair as between individual consumers and there appears no reason why San Joaquin Light and Power Corporation should not put in effect in this territory the meter rates now charged on the rest of its system.

ORDER.

The Railroad Commission of the State of California, being of the opinion that the granting of the authority herein sought will be in the public interest, and that a public hearing in this matter is not necessary;

It is hereby ordered, that Mariposa Commercial and Mining Company be and it is authorized to sell, and San Joaquin Light and Power Corporation be and it is authorized to purchase the electrical transmission and distribution system of Mariposa Commercial and Mining Company, located in the vicinity of the town of Mariposa and more particularly described in the form of agreement filed in this matter and identified as "Exhibit A"; all in accordance with the terms and conditions set forth in said "Exhibit A."

It is hereby further ordered, that San Joaquin Light and Power Corporation be and it is authorized to charge and collect for electric service sold from said distributing system its rates now on file with

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the Railroad Commission and such other rates as may from time to time be filed with and approved by the Railroad Commission.

The authority herein granted is upon the following conditions and not otherwise:

1. Within sixty days after the acquisition of the electrical property of Mariposa Commercial and Mining Company, San Joaquin Light and Power Corporation shall file with the Railroad Commission for approval a stipulation duly authorized by its Board of Directors declaring that San Joaquin Light and Power Corporation, its successors and assigns, will never, in any proceeding before the Railroad Commission or any other public authority, claim any value for any franchises or permits acquired from Mariposa Commercial and Mining Company in excess of the amount paid by the original grantee of such franchises or permits to the public authority granting the same; which amount shall be specified in said stipulation.

2. The consideration at which the public utility properties are herein authorized to be transferred shall not be considered as a measure of the value of said properties for any purpose other than the transfer herein authorized.

3. The authority herein granted will apply only to such transfer as may be made on or before sixty days from the date of this order.

Dated at San Francisco, California, this eighteenth day of November, 1921.

DECISION NO. 9779.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER PERMITTING IT TO CONSTRUCT, MAINTAIN, AND OPERATE ITS LINE OF RAILROAD AT GRADE: FIRST—ACROSS CERTAIN PUBLIC ROADS, HIGHWAYS AND STREETS IN THE COUNTIES OF ALAMEDA AND SANTA CLARA, AND IN THE CITY OF SAN JOSE; SECOND—ACROSS CERTAIN TRACKS OF THE SOUTHERN PACIFIC COMPANY IN THE COUNTIES OF ALAMEDA AND SANTA CLARA; THIRD—ACROSS CERTAIN TRACKS OF PENINSULAR RAILWAY COMPANY IN THE COUNTY OF SANTA CLARA; AND FOURTH—ACROSS CERTAIN TRACKS OF SAN JOSE RAILROADS IN THE COUNTY OF SANTA CLARA AND IN THE CITY OF SAN JOSE.

Application No. 3139.

Decided November 18, 1921.

Lester J. Hinsdale and *James S. Moore*, for Applicant.
T. P. Wittschen and *George A. Posey*, for County of Alameda.
Archer Bowden, for City of San Jose.
F. E. Chapin, for Peninsular Railway Company and San Jose Railroads Company.
J. H. Skaggs, for California Highway Commission.
W. H. Phelps, for Southern Pacific Company.

BY THE COMMISSION.

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THIRD SUPPLEMENTAL OPINION.

In this third supplemental application, The Western Pacific Railroad Company, a corporation, asks for a modification of the Commission's original order, Decision No. 4744, at fourteen of the forty-seven crossings at grade across public highways on its railroad under construction from Niles to San Jose.

A public hearing was held at San Jose, before Examiner Geary, on October 6, 1921.

The modifications of the original order asked refer to crossing protection and may be shown in the following tabulation:

Crossing number	Location	Political subdivision	Order in Decision No. 4744	Modified protection now requested
6	County road	Alameda County, Unincorporated	Automatic flagman	None.
16	Maybury road	Santa Clara County, Unincorporated	Automatic flagman	None.
23	Twenty-fourth St.	City of San Jose	Automatic flagman	None.
25	Williams street	City of San Jose and Santa Clara County, Unincorporated	Automatic flagman	None.
26	Keyes street	Santa Clara County, Unincorporated	Automatic and human flagman	None.
27	Keyes street	City of San Jose	Human flagman	None.
29	Monterey road	Santa Clara County, Unincorporated	Center automatic flagman	Side automatic flagman.
31	Almaden road	Santa Clara County, Unincorporated	Center automatic flagman	Side automatic flagman.
35	Broadway avenue	Santa Clara County, Unincorporated	Automatic flagman	None.
37	Sunol street	Santa Clara County, Unincorporated	Automatic flagman	None.
38	Saveker street		Automatic flagman	None.
39	San Salvador St.	Santa Clara County, Unincorporated	Crossing gates	Automatic flagman.
40	Sunol street	Santa Clara County, Unincorporated	Center automatic flagman	Side automatic flagman.
43	San Fernando St.	Santa Clara County, Unincorporated	Human flagman	None.

In the above tabulation "none" means no protection other than the standard crossing sign, consisting of an X-shaped sign, appropriately lettered and mounted on a post. For crossings Nos. 26 and 27 the original order read that "for the protection of Keyes and San Fernando streets applicant shall maintain a human flagman" and inasmuch as there were involved two crossings of Keyes street, applicant stated that the request for the modification of the order at this crossing was to remove any possible ambiguity in the order, as the record indicated that there had been no discussion of a human flagman at crossing No. 27, Keyes and Fifth streets, the testimony relative to the Keyes street crossing being confined to the main line crossing No. 26, at Keyes street near Twelfth street. It also appeared that the original order might be construed so that crossing No. 26 was to be protected both by an automatic flagman and a human flagman, and applicant

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also brought up, as to this crossing, the question of possible ambiguity and asked an interpretation of the Commission's former order.

With regard to crossing No. 6, the testimony shows that at this crossing the county road is now of concrete, whereas at the time of the hearing of the first application the road was of gravel; that the view is good; that the crossing is practically level; that the grades of both The Western Pacific and the Southern Pacific (which is located parallel to and 60 feet from The Western Pacific track) are nearly level and that the traffic on either railroad is not heavy.

Witness for the county of Alameda, the deputy county surveyor, testified that in his opinion at least one wigwag is necessary for proper protection, but also stated that two wigwags were preferable, one north of the Southern Pacific track and the other south of The Western Pacific track. Aside from this there was no objection on the part of any one present to the modifications requested by applicant. A witness for the Commission made certain recommendations. These recommendations are, briefly:

Crossing number	Recommendations
6	Judgment reserved until traffic count was submitted.
16	No protection other than crossing sign necessary.
23	Automatic flagman when street is paved.
25	Automatic flagman when street is paved.
26	Automatic flagman.
27	No protection other than crossing sign necessary.
29	Automatic flagman at side of road.
31	Automatic flagman at side of road.
35, 37, 38, 40, 43	Judgment reserved until track is laid.
39	Gates not necessary but judgment reserved on automatic flagman until track is laid.

This witness brought out the fact that the track had not actually been constructed beyond crossing No. 35 and that since changes in alignment had already been made and since the conditions at the crossing were often materially altered after the track was constructed, he stated he would like to reserve final judgment until the actual location of the line had been determined. Applicant then suggested suspension of the requirements of Decision 4744 applying to those crossings beyond No. 33. To this no objections were made.

In accordance with the arrangements made, a traffic count has been filed by applicant showing the number of vehicles passing over crossing No. 6 between six o'clock a.m. and eight o'clock p.m. on Sunday, October 15, 1921. This traffic count shows a total of 2940 vehicles

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between six a.m. and eight p.m., with a maximum of 290 between five and six p.m., 276 during the following hour and 260 during the preceding hour.

From this evidence and the testimony it appears that the installation of one wigwag at this location, since the tracks are some 100 feet apart along the highway, would not be justified, as such installation would introduce a hazardous condition because of the liability to confuse travelers on the highway. The one, the Western Pacific track, would be protected and the Southern Pacific track would not be protected. In this proceeding, however, the Southern Pacific crossing was not formally brought to the attention of the Commission and it is therefore concluded that a separate proceeding should be instituted, taking into consideration both the Southern Pacific and the Western Pacific crossings at this point. It can then be determined whether or not both roads should install an automatic flagman at this crossing, either flagman to be operated by the trains of both roads. Under these circumstances it appears that the original order of the Commission should be modified with respect to crossing No. 6 so that The Western Pacific shall, after future investigation by the Commission, install an automatic flagman when and if so ordered.

The representative of the California Highway Commission brought up the question of exact location of the automatic flagman at crossing No. 29, and it was suggested that he, the witness for the applicant, and the witness for the Commission should determine the correct location. There is no objection to this arrangement and the conference to determine the matter will be held, as suggested.

As to crossings Nos. 16, 23, 25, 26, 27, 29, 31 and 35, with respect to crossing gates, the recommendations of the Commission's engineer seem well supported and reasonable and should be adopted.

As to crossings Nos. 35, 37, 38, 39, 40 and 43, the desire of applicant and of the Commission's engineering department is alike in that both believe that final judgment of these crossings should not be rendered until the track is laid and the right of way is cleared so that the hazards at these crossings could be more accurately determined, and it appears that there is no reason why final disposition of this part of the application should be made at this time.

THIRD SUPPLEMENTAL ORDER.

The Western Pacific Railroad Company having in its third supplemental application herein asked for a modification of Decision 4744, as indicated in the foregoing opinion, a public hearing having been held and the matter having been submitted and now ready for decision;

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It is hereby ordered, that Decision No. 4744 be and it is hereby amended as follows:

1. For crossing No. 6, County road.—Applicant is authorized to suspend the installation of an automatic flagman until further notice from this Commission.

2. For crossing No. 16, Maybury road.—That part of Decision No. 4744 requiring the installation of an automatic flagman at this crossing is rescinded.

3. For crossing No. 23, Twenty-fourth street, and crossing No. 25, Williams street.—The installation of automatic flagman at these crossings may be suspended until these streets are paved with permanent pavements.

4. For crossing No. 26, Keyes street near Twelfth street.—An automatic flagman shall be installed at this crossing.

5. For crossing No. 27, Keyes street at Fifth street.—Neither an automatic flagman nor a human flagman need be installed at this crossing.

6. For crossing No. 29, Monterey road, crossing No. 31, Almaden road.—An automatic flagman shall be installed at the side of the street instead of at the center of these highways.

7. For crossings Nos. 36, Sunol street; 38, Saveker street; 39, Sunol street; 40 and 43, San Fernando street.—That part of the application herein dealing with those crossings is hereby denied without prejudice.

The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this eighteenth day of November, 1921.

DECISION No. 9784.

IN THE MATTER OF THE APPLICATION OF JOSEPH A. CHANSLOR AND COAL FIELDS RAILWAY FOR AN ORDER AUTHORIZING THE EXECUTION OF A LEASE.

Application No. 7329.

Decided November 18, 1921.

Thomas, Beedy and Lanagan, for Applicants.

BENEDICT, *Commissioner.*

OPINION.

This application involves the lease of certain railway property owned by Joseph A. Chanslor to Coal Fields Railway, a corporation.

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The record shows that Joseph A. Chanslor is engaged in the business of a common carrier operating, so far as the physical condition of the property permits, a standard gauge line of railroad between McKay Station on the line of the Southern Pacific in San Luis Obispo County and the mines of the Stone Canyon Coal Company in Monterey County, a distance of approximately 22 miles. The railroad was constructed and has been operated principally for the purpose of transporting the production of the Stone Canyon Coal Company. In 1914 the railroad bridge across the Salinas River was destroyed by floods. Since then, little or no business has been done by the railroad.

It appears that Joseph A. Chanslor has entered into an agreement for the sale of the properties. Pending the final payment, he asks permission to lease the properties which are described in this application and in Exhibit "A" to Coal Fields Railway.

More than $100,000 has been or will be expended to build the bridge across the Salinas River and place the railway properties in an operating condition. If this application is granted, the Coal Fields Railway will operate the railroad as a common carrier.

I recommend that this application be granted and herewith submit the following form of order:

ORDER.

Joseph A. Chanslor having applied to the Railroad Commission for permission to lease certain railway properties to Coal Fields Railway and Coal Fields Railway having joined in the application, a public hearing having been held and the Commission being of the opinion that this application should be granted;

It is hereby ordered, that Joseph A. Chanslor be and be is hereby authorized to lease to the Coal Fields Railway the railway properties described in this application in accordance with the terms of the lease filed in this proceeding and marked Exhibit "A."

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of November, 1921.

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DECISION No. 9785.

IN THE MATTER OF THE APPLICATION OF THE NORTHWESTERN REALTY COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING APPLICANT TO SERVE WATER FOR DOMESTIC USE TO THE RESIDENTS OF MARIN TERRACES, LITTLE CITY FARMS AND MARIN HALF ACRE HOMES, BEING TRACTS OF LAND LOCATED IN TAMALPAIS VALLEY, MARIN COUNTY, STATE OF CALIFORNIA.

Application No. 6662.

Decided November 18, 1921.

WATER UTILITY—INADEQUATE SERVICE—TRANSFER TO MUNICIPAL SYSTEM.—In this case it was shown that the company had attempted to dispose of its system to the Marin Municipal Water District. This transfer, the Commission stated, appears to be the most practical solution of the service problem, as it would afford consumers better service at a lower rate.

George Appell, for Applicant.

BY THE COMMISSION.

OPINION.

Northwestern Realty Company, a corporation, makes application for a certificate of public convenience and necessity authorizing it to supply water for domestic purposes to Marin Terraces, Marin Half Acre Homes, Marin Heights and Little City Farms, all located in Tamalpais Valley, Marin County, and to establish rates for the service rendered.

A public hearing was held in this matter at Mill Valley before Examiner Satterwhite, of which all consumers were notified and given an opportunity to appear and be heard.

It appears that the above subdivisions have been gradually placed on the market from 1911 to 1921, inclusive, and that the water system was installed to supply the lots as sold. The greater portion of the pipe is of 2-inch diameter and less, serving about fifty-six consumers throughout a scattered territory. All water supplied is purchased from the Marin Municipal Water District at their regular rates of $1.25 per month for 200 cubic feet or less, with 25 cents per 100 cubic feet for additional amounts up to 10,000 cubic feet. Applicant has charged the same rate to its consumers for metered service and fixed the flat rate charges at $1.50 per month. These rates were not filed with this Commission nor have they been authorized.

Several consumers complained of inadequate service, which fact was admitted by applicant. To provide better service it was shown that applicant has attempted to dispose of the system to the Marin Municipal Water District, but as yet this has not been accomplished. This transfer appears to be the most practical solution of the service problem, as it would afford the consumers better service at a lower rate.

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Provision for betterments of service will be made in the following order.

Applicant did not present an appraisal of its property or of its operating expenses. It was testified that the system had cost $5,000 to install, but no return was asked on this amount at this time.

The Commission's engineer submitted an estimate of a reasonable annual operating expense in the amount of $1,132, which was not questioned. No estimate of cost was submitted as no return on the investment was expected. The possible revenues from the existing rates were estimated to be about $1,000. It was shown that there was some variation in the charges due to private agreements.

The system was shown to be in a development stage, and serves a sparsely settled area.

The rates established in the following order are considered reasonable for the service rendered and are designed to produce the estimated operating expenses, and to distribute the charges equitably among the consumers.

It is recommended that applicant be granted a certificate of public convenience and necessity to operate a public utility water system supplying the tracts set out in the application.

ORDER.

Northwestern Realty Company having applied to the Railroad Commission for a certificate of public convenience and necessity and the establishment of rates, a public hearing having been held and the matter having been submitted,

It is hereby found as a fact that public convenience and necessity require that Northwestern Realty Company be granted a certificate authorizing it, its successors and assigns, to supply water for domestic use in Marin Heights, Marin Terraces, Marin Half Acre Homes and Little City Farms, being subdivisions of land located in Marin County; that the present water system is inadequate for the service requirements, and that the rate schedule now in use, in so far as it differs from the schedule herein set out, is unjust and unreasonable, and that the rates herein established are just and reasonable rates to be charged for such service.

And basing its order upon the foregoing findings of fact and upon the statements of fact contained in the opinion preceding this order;

It is hereby ordered as follows:

1. That Northwestern Realty Company be granted a certificate of public convenience and necessity authorizing it, its successors and assigns, to supply water for domestic purposes in Marin Heights, Marin Terraces, Marin Half Acre Homes, and Little City Farms, all located in Marin County.

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2. That Northwestern Realty Company file with this Commission, for its approval, within thirty (30) days of the date of this order plans and specifications for the improvement of the water system and service to its consumers.

3. That the Northwestern Realty Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates, said schedule to become effective as provided later in this order:

Flat Rates.

Minimum annual charge, payable in advance, which entitles consumer to six months' service	$12 00
For each additional month	2 00

Meter Rates.

Minimum annual charge, payable in advance which entitled consumer to a maximum of 200 cubic feet of water per month for six months	$9 00
All use during other months, for 200 cubic feet or less, per month	1 50
All use above 200 cubic feet and less than 1000 cubic feet each month, per 100 cubic feet	30
All use over 1000 cubic feet each month, per 100 cubic feet	25

4. That authority to charge and collect the rates herein above specified shall not become effective until such time as improvements to the said water system and service are made, and a supplemental order of this Commission is issued, fixing the date on which these rate schedules are to become effective, and such further order as the Commission may deem proper.

Dated at San Francisco, California, this eighteenth day of November, 1921.

DECISION No. 9788.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE AND SELL TO THE NATIONAL CITY COMPANY (A NEW YORK CORPORATION) TEN MILLION DOLLARS FACE AMOUNT OF APPLICANT'S FIRST AND REFUNDING MORTGAGE GOLD BONDS OF SERIES "B."

Application No. 7356.

Decided November 21, 1921.

William B. Bosley and *C. P. Cutten*, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

Pacific Gas and Electric Company asks permission to issue and sell at not less than 94¼ per cent of their face value and accrued interest $10,000,000 of first and refunding mortgage gold bonds of Series "B." The bonds are to bear interest at the rate of 6 per cent per annum,

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to be dated December 1, 1921, to become due December 1, 1941, and are to be noncallable.

Applicant and Mount Shasta Power Corporation, controlled through stock ownership by applicant, intend to use the proceeds obtained from the sale of bonds to pay for the acquisition and construction of new properties. The record shows that Pacific Gas and Electric Company and Mount Shasta Power Corporation have unreimbursed capital expenditures and authorized and estimated construction expenditures aggregating $14,473,436.60. This amount is made up of the following items:

Unexpended balances of Mount Shasta Power Corporation's general manager's authorizations for the construction of new hydro-electric plants and electric transmission distribution systems and other works and for the acquisition of property required for use in the service of the public on August 31, 1921	$11,539,312 77
Unexpended balances of Pacific Gas and Electric Company's general manager's authorizations and estimated expenditures not covered by general manager's authorizations made prior to December 1, 1920, for the construction of additions and betterments required for the proper service of the public on August 31, 1921	1,433,648 95
Unreimbursed capital expenditures of Pacific Gas and Electric Company and Mount Shasta Power Corporation on August 31, 1921	1,500,474 88
Total	$14,473,436 60

The testimony shows that applicant has entered into an agreement with The National City Company for the sale of $10,000,000 of Series "B" first and refunding mortgage gold bonds. The National City Company has agreed to pay for the bonds 94¼ per cent of their face value and accrued interest. Applicant intends to deposit all of the proceeds obtained from the sale of the bonds with the trustees under its first and refunding mortgage dated December 1, 1920, or with one of them, or in a bank or banks, or with the said The National City Company, until such time as the Railroad Commission may authorize the disbursement of the proceeds. In general, it is the intention of the company to ultimately use the proceeds to pay for the acquisition and construction of the properties referred to in this application.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue $10,000,000 of its first and refunding mortgage gold bonds of Series "B," a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of said bonds is reasonably required by applicant and that applicant should be permitted to issue and sell said bonds;

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It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue and sell, for cash, at not less than 94¼ per cent of their face value and accrued interest $10,000,000 of first and refunding mortgage 6 per cent gold bonds of Series "B" dated December 1, 1921, and payable December 1, 1941, and deposit the proceeds obtained from the sale of said bonds with the trustees under applicant's first and refunding mortgage dated December 1, 1920, or with one of them, or in a bank or banks, or with the said The National City Company, said proceeds to be held in a special account or accounts and not expended for any purpose except as authorized by the Railroad Commission.

The authority herein granted is subject to further conditions as follows:

1. Pacific Gas and Electric Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed in section 57 of the Public Utilities Act, which fee amounts to $5,500.

3. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before February 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of November, 1921.

DECISION No. 9789.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE CREATION AND ISSUANCE OF PREFERRED STOCK AND THE EXCHANGE AND RETIREMENT OF PRESENT ISSUE OF PREFERRED STOCK.

Application No. 7207.

Decided November 23, 1921.

REFINANCING—OVERCAPITALIZATION—REFUNDING.—Applicant permitted to issue $400,000, 7 per cent cumulative preferred stock to refund $2,000,000, 7 per cent cumulative preferred stock and unpaid accumulated dividends amounting by the end of the year to approximately $1,250,000. Applicant has in addition an authorized common stock issue of $3,000,000, issued prior to March 23, 1912, the effective date of the Public Utilities Act. The Commission suggested that this stock also be refunded.

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IMPROPER FINANCING—HIGH INTEREST RATES.—The Commission pointed out that improper financing, carried over from the period before the Commission had control over the issue of stocks and bonds, has resulted in some utilities depending entirely on borrowed funds, resulting in the payment of high interest rates and causing unsatisfactory service.

SALE OF STOCK—DISCOUNT.—Applicant's request to sell $100,000 of 6 per cent cumulative preferred stock at 70 modified to permit sale at not less than 80.

James F. Pollard, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

In this application Coast Valleys Gas and Electric Company asks permission to issue $500,000 of 6 per cent preferred stock, to refund outstanding preferred stock and finance the construction of additions and betterments.

Coast Valleys Gas and Electric Company was organized on or about March 18, 1912, with an authorized stock issue of $5,000,000, divided into $3,000,000 of common and $2,000,000 of 7 per cent cumulative preferred. All of the stock was issued prior to March 23, 1912, the effective date of the Public Utilities Act. No dividend has ever been paid on either class of stock.

Applicant's funded debt in the hands of the public is reported at $1,260,000, consisting of $1,020,000 of first mortgage 6 per cent bonds due March 1, 1952, and $240,000 of 10-year 8 per cent gold notes due March 1, 1930. In addition, applicant has deposited $360,000 of its first mortgage bonds to secure the payment of its 10-year 8 per cent gold notes. Applicant's current liabilities on August 31, 1921, were less than its current assets.

The Railroad Commission in Decision No. 4847, dated November 16, 1917, in Application No. 1876, revised applicant's rates and used as a rate base as of June 30, 1917, the sum of $1,213,546.36. Applicant reports that since June 30, 1917, its net construction expenditures have totaled $494,305.74, which added to the $1,213,546.36, makes a total of $1,707,852.10. The present value of the properties on a reproduction basis is reported by applicant at approximately $2,500,000. Deducting from the $1,707,852.10 applicant's funded debt of $1,260,000 leaves a balance of $447,852.10 for the preferred stock. If a value of $2,500,000 is assumed for the properties, the balance for the preferred stock is $1,240,000. Applicant has now outstanding $2,000,000 of 7 per cent preferred stock, on which the accumulated unpaid dividends by the end of the year will amount to approximately $1,250,000.

Applicant has from time to time been called upon to expend relatively large amounts for construction. To meet the demands for service and render proper service throughout the territory in which it is operating, applicant will have to continue to expend considerable sums for additions and betterments. It appears that applicant's stock-

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holders realized that some of the moneys necessary for additions and betterments should be secured through the issue and sale of stock. It is apparent that under applicant's present financial set-up, it can not hope to secure any funds through the sale of preferred stock, for the reason that the equity behind such stock is considerably less than the par value of the stock and unpaid accumulated dividends. The record shows that applicant's preferred stockholders have agreed to return to applicant the $2,000,000 of outstanding preferred stock and to cancel their claims for unpaid dividends on such stock, provided the company issue to them in exchange for the stock and the claims for unpaid dividends new 6 per cent preferred stock in the amount of $400,000.

Proceedings have been initiated to amend applicant's articles of incorporation, so as to provide for the issue of $500,000 of 6 per cent cumulative preferred stock. Of this amount, applicant asks permission to issue $400,000 to its present preferred stockholders in exchange for the $2,000,000 of preferred stock they now own and their claims for unpaid dividends, and to sell the remaining $100,000 at such price as the Commission may determine and use the proceeds to pay for additions and betterments.

In its Exhibit No. "5," applicant reports in some detail the estimated cost of additions and betterments to plant which are in process of construction or the construction of which should be undertaken as soon as funds are available. Applicant's Exhibit No. "5" may be summarized as follows:

Amount necessary to complete construction work in progress	$1,773 83
Estimated cost of proposed construction work which is urgent and which should be undertaken immediately	139,650 00
Estimated cost of proposed construction work which should be made if, as and when cash is available	235,700 00
Extraordinary maintenance, some of which is chargeable to operation, and some to depreciation reserve	20,350 00
Total	$397,473 83

I am thoroughly in accord with applicant that it should secure some of the money necessary to pay for its proposed construction through the issue and sale of stock. I do not believe, however, that applicant's proposed refinancing plan goes far enough. It occurs to me that applicant should refund all of its outstanding stock and bring its capitalization in line with its rate base plus a proper allowance for nonoperative income producing properties.

Improper financing, carried over from the period when this Commission did not have control over the issue of stocks and bonds, has resulted in some utilities depending entirely on borrowed funds or earnings for moneys to pay for additions and betterments. The result has been the payment of high interest rates for loaned capital. The

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inability to sell stock is not always due to low earnings on property used and useful in rendering service to the public, but frequently is caused by the fact that a large amount of stock is outstanding which does not rest upon any real equity. It is only through refinancing and the sale of stock that such conditions can be remedied. It is unfortunate that the Commission has not sufficient power to take positive action in these matters. I am convinced that antiquated financial structures have seriously handicapped utilities in their financing and have been a cause in rendering unsatisfactory service to the public. The plan suggested by applicant in this proceeding is in the right direction, but it is suggested that those in control of this company consider the refinancing of the present outstanding common stock as well as the preferred.

Applicant asks permission to sell its 6 per cent cumulative preferred stock at not less than 70, or such other price as the Commission may determine. This request of applicant has been considered, and I do not believe that it should sell its stock for less than $80 per share net.

I herewith submit the following form of order:

ORDER.

Coast Valleys Gas and Electric Company having applied to the Railroad Commission for permission to issue $500,000 of 6 per cent cumulative preferred stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Coast Valleys Gas and Electric Company be and it is hereby authorized to issue $500,000 par value of 6 per cent cumulative preferred stock.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized to be issued, $400,000 may be issued for the purpose of refunding the $2,000,000 of 7 per cent cumulative preferred stock now outstanding, together with all claims for any unpaid dividends on said $2,000,000 of preferred stock, said $400,000 of stock to be issued concurrently with or subsequent to the cancellation of the $2,000,000 of stock.

2. Of the stock herein authorized to be issued, $100,000 par value may be sold by applicant, for cash, for not less than $80 per share net.

3. The proceeds realized from the sale of the $100,000 of stock may be used by applicant for the purpose of financing in part the cost of the additions and betterments reported in Exhibit "5" to the extent

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that such cost is properly chargeable to capital account under the uniform system of accounts prescribed by this Commission.

4. Coast Valleys Gas and Electric Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before August 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of November, 1921.

DECISION No. 9795.

IN THE MATTER OF THE APPLICATION OF THE FRESNO CANAL AND LAND CORPORATION FOR AUTHORITY TO SELL AND THE CONSOLIDATED CANAL COMPANY FOR AUTHORITY TO PURCHASE CERTAIN PROPERTY OF THE FRESNO CANAL AND LAND CORPORATION KNOWN AS THE LONE TREE CHANNEL AND ITS LATERALS.

Application No. 6869.

Decided November 23, 1921.

L. L. Cory, for Applicants.

BY THE COMMISSION.

OPINION.

In this proceeding the Fresno Canal and Land Corporation and the Consolidated Canal Company, both public utilities supplying water for irrigation purposes in Fresno and Kings counties, make joint application as entitled above. The canal properties, ditch rights and appurtenances which it is proposed to sell and to purchase at an agreed price of $62,750 include the Lone Tree Channel, Highland Canal, McCall Canal, and a certain interest in the Garfield Ditch, all more particularly described in the deed of sale, a copy of which is attached to the application and marked Exhibit "E." A sales agreement entered into between the applicants is also attached and marked Exhibit "D." Therein it is agreed that the sale price will be represented by a promissory note executed by the Consolidated Canal Company to the Fresno Canal and Land Corporation and payable on or before one year from the date thereof, with interest at 8 per cent. Subsequently a supplemental application was filed asking that there

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be included in the proposed transfer what is known as the Sierring Ditch, which it is alleged is an integral part of the above mentioned canal properties and had been inadvertently omitted from the original application, the agreed price therefor to be $8,348.54, to be paid in accordance with the terms of the agreement set forth in the original application.

A public hearing was held at Fresno before Examiner Satterwhite, of which all interested parties were notified and given an opportunity to appear and be heard.

The evidence shows that these canals constitute the only public utility property now owned by the Fresno Canal and Land Corporation, the major portion of its properties having recently been acquired by the Fresno Irrigation District. Upon the consummation of the transfer for which application is made herein the Fresno Canal and Land Corporation proposes to disincorporate. It was further shown that the Consolidated Canal Company is the owner of and is now operating an extensive public utility irrigation system and is in a position to render proper and adequate service to the present consumers on the Lone Tree Channel and other canals which are proposed to be transferred.

ORDER.

Joint application having been made for authority to transfer to the Consolidated Canal Company certain canal properties and rights of the Fresno Canal and Land Corporation, more particularly described in Appendix "A" attached hereto and made a part hereof, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that public convenience and necessity would be best served by the granting of the application.

And basing its order on the foregoing finding of fact and the statements of fact contained in the opinion preceding this order;

It is hereby ordered, that the Fresno Canal and Land Corporation be and it is hereby granted authority to sell, and Consolidated Canal Company to purchase, the certain properties and rights more particularly described in Appendix "A" attached hereto, in accordance with the terms of the agreement attached to the application and marked Exhibit "D" and as amended in the supplemental application, upon the following conditions and not otherwise:

1. The purchase price agreed upon between the applicants herein shall not be urged before this Commission or any other public body as a finding of value for rate fixing or any other purpose than the transfer herein authorized.

2. The authority herein granted shall apply only to such transfer as may have been made on or before January 31, 1922, and a certified

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copy of the instrument of conveyance shall be filed with this Commission by the Fresno Canal and Land Corporation within thirty (30) days of the date on which it is executed.

3. Within ten (10) days from the date on which Fresno Canal and Land Corporation actually relinquishes control and possession of the properties herein authorized to be transferred, a certified statement shall be filed with this Commission indicating the date on which such control and possession has actually been relinquished.

Dated at San Francisco, California, this twenty-third day of November, 1921.

APPENDIX "A".

Schedule of property to be conveyed by Fresno Canal and Land Corporation to Consolidated Canal Company.

1. *Lone Tree Channel*: Beginning at a point in the south bank of Fresno Canal, which point is near the center of section 32, township 13 south, range 23 east, M. D. B. and M., and running thence in a general southwesterly direction 8.04 miles to a point in section 26, township 14 south, range 22 east, M. D. B. and M., near the north line thereof.

2. *Highland Canal*: Beginning at the end of Lone Tree Channel near the north line of section 26, township 14 south, range 22 east, M. D. B. and M., and running thence in a southeasterly direction 5.40 miles to a point in the east line of the west half of section 7, township 15 south, range 23 east, M. D. B. and M.

3. *McCall Canal*: Beginning at the end of Lone Tree Channel near the north line of section 26, township 14 south, range 22 east, M. D. B. and M., and running thence in a southwesterly direction 4.64 miles to a point in the south line of section 17, township 15 south, range 22 east, M. D. B. and M.

4. Also a certain interest in Garfield Ditch, beginning in the west bank of Lone Tree Channel in section 26, township 14 south, range 22 east, M. D. B. and M.; thence running southwesterly six miles, more or less, ending in the west bank of the Fowler Switch Canal in section 7, township 15 south, range 22 east, M. D. B. and M., said interest being represented by those certain options recently exercised by Fresno Canal and Land Corporation.

5. Commencing at a point on the Fowler Switch Canal, near the southeast corner of the southwest quarter of the southeast quarter of section 16, township 14 south, range 22 east; thence running along the north side of the county road, westerly, a distance of about one-half mile; thence northwesterly and northerly to the northeast corner of the southeast quarter of the southeast quarter of section 17, township 14 south, range 22 east; thence westerly for three miles to the northeast corner of the southeast quarter of the southeast quarter of section 14, township 14 south, range 21 east; thence southerly 330 feet along the west side of county road; thence westerly about 1600 feet, to where the same connects with the Briggs Canal.

Also all laterals, headgates and appurtenances belonging to or connected with said properties.

Subject, however, to a certain interest heretofore transferred by Fresno Canal and Land Corporation to the Fresno Irrigation District, a corporation, and a contract entered into between said Fresno Canal and Land Corporation and said Irrigation District, with reference to said Lone Tree Channel and its laterals, headgates and appurtenances and for the cost of the care and maintenance thereof, and also subject to the decision heretofore made by the Railroad Commission of the State of California fixing the rates to be charged for service of water through said Lone Tree Channel, bearing date April 16, 1921, and numbered 8880.

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DECISION NO. 9797.

IN THE MATTER OF THE APPLICATION OF STARK STEAMSHIP LINES, INCORPORATED, A CORPORATION, FOR PERMIT AUTHORIZING OF ISSUANCE OF STOCK.

Application No. 7349.

Decided November 23, 1921.

John A. Sinclair, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Stark Steamship Lines, Incorporated, asks permission to issue 997 shares ($99,700) of its capital stock.

Stark Steamship Lines, Incorporated, was organized on or about June 7, 1921, with an authorized stock issue of $100,000 divided into 1000 shares of the par value of $100 each. None of its stock except shares necessary to qualify directors has been issued.

H. C. Coburn, applicant's president, testified that it was the company's intention at this time to charter and operate two vessels as carriers of freight between San Francisco and Portland, Oregon. His testimony shows that while the company at present intends to carry on only an interstate business, it is possible that in the future it may engage in intrastate business within the State of California. Applicant's articles of incorporation permit it to engage in intrastate business of a public utility character. It is for this reason that applicant has applied to this Commission for permission to issue its stock.

Applicant asks permission to issue $15,000 of its stock to H. C. Coburn Company and F. M. Stark, in exchange for $12,750, payable 25 per cent in cash and the balance in ten equal monthly installments. It is proposed to issue the $15,000 of stock at $85 per share. Stock in the amount of $83,700 applicant intends to offer for sale at par, less a selling commission of 15 per cent thereof, or at $85 per share net. One thousand dollars of its stock applicant asks permission to issue to John A. Sinclair in payment for legal services. H. C. Coburn testified that none of applicant's stock will be issued until it is fully paid.

Applicant asks permission to use $59,000 of the proceeds from the sale of its stock to purchase and charter vessels and $25,000 for working capital. At this time applicant is uncertain whether it will purchase vessels or charter the same. The order herein will permit applicant to do either.

Applicant has submitted a statement showing that $14,805 is required to operate the Steamship "Georgina Rolph" or the "Annette Rolph" on one round trip from San Francisco to Portland. Applicant

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is, according to the record, considering a proposal to charter the two vessels mentioned. If it can acquire vessels on more satisfactory terms than charter vessels, it will do so.

Applicant does not intend to begin operations until it has $25,000 in cash on hand from the sale of stock. H. C. Coburn testified that in his opinion no difficulty would be encountered in disposing of applicant's stock.

Applicant will be required to file with the Commission a copy of its prospectus covering the sale of its stock, if any is published, and a copy of its stock subscription agreement. Both must contain this language:

> While the Railroad Commission has authorized the issue and sale of this stock, its order is permissive only and does not constitute a recommendation or endorsement of the stock.

I herewith submit the following form of order:

ORDER.

Stark Steamship Lines, Incorporated, having applied to the Railroad Commission for permission to issue $99,700 par value of stock, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue, is reasonably required by applicant and that the expenditures authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Stark Steamship Lines, Incorporated, be and it is hereby authorized to issue on or before April 30, 1922, $99,700 par value of its common capital stock.

The authority herein granted is subject to further conditions as follows:

1. Stock in the amount of $15,000 herein authorized to be issued may be delivered to H. C. Coburn Company and F. M. Stark in exchange for $12,750, payable 25 per cent in cash and the balance in ten equal monthly installments.

2. Stock in the amount of $1,000 herein authorized to be issued may be delivered to John A. Sinclair in payment for legal services.

3. Stock in the amount of $83,700 herein authorized to be issued may be sold by applicant for not less than par, less a selling commission of 15 per cent thereof.

4. The net proceeds realized from the sale of the stock shall be used by applicant to purchase or charter vessels and for working capital, as outlined in this application.

5. Applicant shall file with the Commission a copy of its prospectus, if any is published, in connection with the sale of its stock, a copy of its stock subscription agreement and a copy of each and every agree-

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ment under the terms of which an individual or individuals are employed to act as agents or salesmen for applicant in selling the stock herein authorized.

6. On each stock subscription agreement and in any prospectus issued and distributed by applicant shall appear this language:

> While the Railroad Commission has authorized the issue and sale of this stock, its order is permissive only and does not constitute a recommendation or an endorsement of the stock.

7. Stark Steamship Lines, Incorporated, shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of November, 1921.

DECISION NO. 9803.

IN THE MATTER OF THE APPLICATION OF FRED H. DRAKE FOR AN ORDER FIXING AND ADJUSTING WATER RATES.

Application No. 7134.

Decided November 23, 1921.

WATER UTILITY—OVERBUILT SYSTEM—FULL RETURN NOT ALLOWED.—It is held that in the case of an overbuilt system designed to facilitate real estate promotion it would be unreasonable to burden present consumers with rates which would yield a full return on the investment.

Morrison, Dunne and Brobeck, by *H. H. Phleger*, for Applicants.

BY THE COMMISSION.

OPINION.

This proceeding, brought by Fred H. Drake as agent for the Mercantile Trust Company of San Francisco, is an application for an order of this Commission authorizing an increase in the rates and charges for water furnished for domestic purposes to consumers in the unincorporated town of San Carlos, San Mateo County.

The application alleges in effect that the Mercantile Trust Company is the owner of the public utility water distribution system supplying the town of San Carlos; and that the rates at present in effect do not produce sufficient revenue to meet the reasonable annual charges of the system, including depreciation allowance and a return upon the invest-

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ment. The Commission is therefore asked to establish rates which will yield an adequate return.

A public hearing was held in this proceeding at San Carlos before Examiner Geary, of which all interested parties were notified and were given an opportunity to appear and be heard.

San Carlos townsite was a real estate subdivision acquired from the Phelps Estate about 1910 by the San Carlos Park Syndicate. This corporation installed a water system, including a pumping plant and a 135,000-gallon concrete sump, together with certain distribution mains. The water supply was obtained from the Spring Valley Water Company's Alameda pipe line and was pumped to a concrete reservoir on an elevation above the tract.

In November, 1915, the San Francisco Peninsula Company, a corporation, took over the properties under foreclosure proceedings, subject to a deed of trust dated April 2, 1910, from the San Carlos Park Syndicate to the Mercantile Trust Company. On May 24, 1917, the Mercantile Trust Company was obliged to foreclose on the properties and thus obtained title to all unsold lots in the subdivision and to the water system. The new owners made large extensions to the distribution mains in the tract and about 1920 discontinued using the pumping plant above mentioned, having extended the 4-inch distribution line to a connection with the Spring Valley Water Company's pressure main at the Belmont pump station. The present distribution system consists of about 11,330 feet of 4-inch and 15,090 feet of 2, 1½ and 1-inch mains, largely standard screw pipe. Ninety-two services have been installed, all of which are metered.

The rates at present in effect are 22½ cents per 100 cubic feet, with a minimum charge of $1. At the time these rates were put into effect they were practically identical with the rates charged the utility by the Spring Valley Water Company and consequently there was little or no provision for any losses in transit, for costs of maintenance of the distribution system or for the costs of collection.

The following are the Spring Valley Water Company's present rates, at which applicant now purchases water for distribution and sale to consumers in San Carlos:

Monthly service charge for each 2-inch meter.....$5 40
For the first 3,300 cubic feet of water delivered, 28.8 cents per 100 cubic feet.
For the next 30,000 cubic feet of water delivered, 25.2 cents per 100 cubic feet.
For all over 33,300 cubic feet of water delivered, 21.6 cents per 100 cubic feet.

Following a field investigation and an examination of the records of the utility, Mr. H. A. Noble, one of the hydraulic engineers of the Commission, compiled a report setting forth a detailed inventory and appraisal of the system. This report, submitted in evidence, shows the

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estimated original cost of the properties, at present used and useful, as $14,392, and the depreciation annuity computed by the sinking fund method at 6 per cent as $336.

Applicant submitted what was entitled a cost inventory of the system showing a total of $19,419.75, and included $5,250 for the pumping equipment which the evidence shows is not now utilized. This cost inventory is admittedly based largely on estimates. The evidence shows that the actual original cost of the system is not obtainable from the records available. The following, compiled from the book accounts, shows the maintenance and operation expenses for the year 1920:

Water purchased from Spring Valley Water Company	$3,107 58
Electric power for pumping	10 36
Labor charged to repairs and upkeep	417 06
Total	$3,535 00

It appears that the above total does not include certain expenses incurred that are properly chargeable to maintenance and operation expenses, namely: Superintendence, collection and office expenses. The item of labor includes only part time of one man at the rate of $4.50 per day. Up to this date the water system has not been directly assessed for taxes and there has been no expense for insurance.

After a careful consideration of all the above facts, together with the operating methods and practices obtaining, and the conditions of upkeep of the system, it is estimated that $4,600 is a reasonable amount to be allowed in the annual charges for future maintenance and operation expenses, including the cost of water secured for resale. The present rate schedule produced a revenue of $2,887.62 during 1920, which amount it is apparent was inadequate to return the actual maintenance and operation expenses.

The evidence shows that the water system has been installed and operated by the certain real estate promoters who have been engaged in the subdivision and sale of lots in the tract. While the growth in the community has been rapid during the past two years, the tract still remains sparsely settled with an overbuilt distribution system, and it would be unreasonable to burden the present consumers with rates which would yield a full return on the investment in the system. After a study of the metered water use for 1919 and 1920, introduced in evidence, the rate schedule set out in the following order has been designed to yield reasonable annual charges for future operation of the system, including maintenance and operation expenses, depreciation annuity, and a partial interest return on the investment.

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ORDER.

Fred H. Drake, agent of the Mercantile Trust Company, having applied to this Commission for an order authorizing an increase in rates on the San Carlos Water System, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the present rates charged by Fred H. Drake for water supplied to consumers on the San Carlos Water System, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates herein established are just and reasonable rates to be charged for such service;

And basing the order on the foregoing finding of fact and the statements of fact contained in the opinion preceding this order;

It is hereby ordered, that Fred H. Drake, as agent of the Mercantile Trust Company, be and he is hereby authorized to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be charged for all service rendered subsequent to December 31, 1921:

Rate Schedule.

Metered use—	
Monthly minimum charges for metered use:	
For ¾-inch and ⅝-inch meters	$1 50
For 1 -inch meter	2 50
For 1½-inch meter	3 75
For 2 -inch meter	5 00
Monthly quantity rates:	
For use between 0 and 3000 cubic feet, per 100 cubic feet	$0 40
All use over 3000 cubic feet, per 100 cubic feet	35

It is hereby further ordered, that Fred H. Drake, agent for Mercantile Trust Company, be and he is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern the relations between the utility and its consumers, such rules and regulations to become effective upon their acceptance for filing by this Commission.

Dated at San Francisco, California, this twenty-third day of November, 1921.

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DECISION No. 9805.

IN THE MATTER OF THE APPLICATION OF THE C. H. HOLT REALTY COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING APPLICANT TO SERVE WATER FOR DOMESTIC USE TO THE RESIDENTS OF EMERALD LAKE PARK AND OAK KNOLL MANOR, BEING TRACTS OF LAND LOCATED NEAR REDWOOD CITY, SAN MATEO COUNTY, STATE OF CALIFORNIA.

Application No. 6663.

Decided November 23, 1921.

WATER UTILITY—DEVELOPMENT STAGE.—Where a system is in a development stage, investment or depreciation can not reasonably be used in establishing a rate.

George H. Appell, for Applicant.

BY THE COMMISSION.

OPINION.

C. H. Holt Realty Company, a corporation, makes application for a certificate of public convenience and necessity authorizing it to supply water for domestic purposes to subdivisions of land known as Emerald Lake Park and Oak Knoll Manor, contiguous to the city limits of Redwood City, San Mateo County, and to establish rates for the service rendered.

A public hearing was held at Redwood City before Examiner Satterwhite, of which all the consumers were notified and given an opportunity to be present and be heard.

Applicant is engaged in a general real estate business. It subdivided these tracts and installed the water system in 1917 under the corporation name of Lavelle-Holt Realty Company. In 1918 the name was charged to C. H. Holt Realty Company, applicant herein.

A portion of the subdivided area is within the city limits of Redwood City and this area is supplied with water by the Redwood City Municipal Water System.

Water is obtained from the municipal system at its regular rates and pumped into storage tanks, from which it is distributed to the consumers.

Applicant has the same meter rates in effect that are charged by the municipal system. These rates vary according to use, and range from 30 cents per 1000 gallons for the first 15,000 gallons to 16 cents per 1000 gallons for use over 400,000 gallons. The minimum meter charge on applicant's system is $1 per month, and the flat rate charge is $1.50 per month.

At present there are about 120 live services, of which about seventy are metered. Many of the consumers have temporary buildings, and it was shown that about forty occupy their premises during the summer months or week ends and holidays.

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Applicant did not present an appraisal of its properties, but it was testified that the sum of $12,806.70 was expended in installing the system. However, no return is asked on this amount. No estimate of operating charges was submitted. The revenues for six months were shown to be $486.

The Commission's engineer submitted an estimate of $2,370 as a reasonable annual operating charge. No estimate was made of the investment or depreciation, as the system is in its development stage and these elements can not reasonably be used in establishing a rate.

The rates established in the following order are considered reasonable for the service rendered, and will produce sufficient revenue to approximate the estimated operating expenses. The margin of revenue over expenses will increase as the tract grows and new consumers are added to the system.

ORDER.

C. H. Holt Realty Company having applied to the Railroad Commission for a certificate of public convenience and necessity and for the establishment of rates, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that public convenience and necessity require that C. H. Holt Realty Company be granted a certificate authorizing it, its successors and assigns, to supply water for domestic purposes in Oak Knoll Manor and Emerald Lake Park, being subdivisions of land near Redwood City, San Mateo County; that the rate schedule now in use, in so far as it differs from the schedule herein set forth, is unjust and unreasonable, and that the rates herein established are just and reasonable rates to be charged for such service.

And basing its order upon the foregoing finding of fact and the statements of fact contained in the opinion preceding this order;

It is hereby ordered, as follows:

1. That C. H. Holt Realty Company be granted a certificate of public convenience and necessity, authorizing it, its successors and assigns, to supply water for domestic purposes in Oak Knoll Manor and Emerald Lake Park, all located in San Mateo County.

2. That C. H. Holt Realty Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates, said schedule to be effective for all service rendered subsequent to January 1, 1922:

Flat Rates.

Minimum annual charge, payable in advance, which entitles consumer to six months' service	$12 00
For each additional month	2 00

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Meter Rates.

Minimum annual charge, payable in advance, which entitles consumer to a maximum of 400 cubic feet of water per month for six months	$9 00
All use during other months, 400 cubic feet or less, per month	1 50
All use above 400 cubic feet in each month, per 100 cubic feet	30

3. That C. H. Holt Realty Company be and it is hereby directed to file with the Railroad Commission within thirty (30) days from the date of this order, rules and regulations governing service to its consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.

Dated at San Francisco, California, this twenty-third day of November, 1921.

DECISION No. 9811.

IN THE MATTER OF THE APPLICATION OF CERTAIN CITIZENS OF QUINCY, PLUMAS COUNTY, CALIFORNIA, AN UNINCORPORATED TOWN, PATRONS OF QUINCY WATER WORKS,

vs.

MATTIE L. GOODWIN AND GRACE WEBB, COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF QUINCY WATER WORKS.

Case No. 1492.

QUINCY FIRE DISTRICT AND C. J. LEE, M. McINTOSCH AND R. STEWART, COMMISSIONERS THEREOF,

vs.

MATTIE L. GOODWIN AND GRACE WEBB, COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF QUINCY WATER WORKS.

Case No. 1493.

Decided November 23, 1921.

WATER UTILITY—ADJUSTMENT OF RATES—DISCRIMINATION.—In this case it is held that an adjustment of rates is necessary rather than an increase. Rates established were designed to distribute the charges uniformly and to remove discriminatory charges.

H. B. Wolfe and *Stanley C. Young*, for Complainants.
W. N. Goodwin, for Defendants.

BY THE COMMISSION.

OPINION.

Complainants in Case No. 1492 are residents of the unincorporated town of Quincy, Plumas County, and allege that the defendants, who own and operate a public utility, render inadequate service, and also that the rates now in effect are discriminatory. This Commission is asked to establish reasonable and nondiscriminatory rates, and for such further relief as may be proper.

Defendants in their answer make general denial of the allegations of the complainants, and allege that the utility has never earned a

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proper return for the service rendered. The Commission is therefore asked to fix remunerative rates.

The Quincy Fire District, organized under the laws of the State of California, and embracing in general the town of Quincy and vicinity, makes complaint in Case No. 1493, alleging in effect that the defendants have failed to furnish an adequate supply of water for fire fighting purposes; that discrimination exists as to such service, and that the district has funds and stands ready to pay for proper service of this nature. The Commission is asked to require the utility to construct a reservoir of 500,000 gallons capacity for fire purposes only, and that a rate be established for this service.

Defendants in their answer to this complaint state that the utility has never held itself liable to furnish service for fire fighting purposes beyond the extent of its ordinary facilities, and that the Commission is without jurisdiction in the matter.

These proceedings were consolidated for hearing at Quincy before Examiner Satterwhite. All interested parties were notified and given an opportunity to be present and be heard.

This system was originally installed in 1897 by defendants' predecessors in interest to supply the town of Quincy, and has since been extended and enlarged from time to time to meet the increasing demands. Originally the entire water supply was obtained from Goodwin Ravine, but later this supply was supplemented by water from springs at the head of Ganzer Ravine. The water from both sources is conveyed through natural water courses and a ditch to a reservoir of approximately 275,000 gallons capacity above the town, from which it is supplied by gravity to about 110 consumers through about 2.4 miles of distribution mains varying from 12 inches to 1½ inches in diameter.

The rates now in effect are in general as follows:

$2 00	per month for 4-room house with toilet facilities.
2 50	per month for house larger than 4 rooms and for large families.
50	per month for irrigation of lawns.
200 00	per annum for courthouse and grounds.
150 00	per annum for Plumas County high school.
50 00	per annum for Quincy Lumber Company.

At the hearing complaints of poor service were made by residents of certain sections which are supplied by 1½-inch mains. This condition was admitted by defendants, who offered to install larger mains immediately.

Defendants did not submit a valuation of the property or a statement of their operating expenses.

Mr. John Spencer, one of the Commission's hydraulic engineers, submitted an appraisal showing the estimated original cost of this system,

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exclusive of water rights, but including an allowance for replacement of small mains, to be $10,354. Mr. Spencer also submitted an estimate of annual operating expenses in the amount of $1,583, and recommended the sum of $226 for depreciation annuity, which was computed by the sinking fund method of 6 per cent.

It was shown that the right to divert water from Ganzer Ravine had cost defendants or their predecessors approximately $4,000. The minimum flow of this source approximates 15 miner's inches, or about 250,000 gallons per day. It was not shown that there was any expenditure connected with securing the right to divert water from Goodwin Ravine. Including the expenditure for the right to divert water from Ganzer Ravine, the sum of $14,354 represents the total estimated original cost of the used and useful property of this utility. No objection was raised to any of the estimates of original cost, maintenance and operating expense or depreciation annuity, and as they appear reasonable they will be used for the purposes of this proceeding.

Based upon the foregoing estimates the annual charges are as follows:

Return on $14,354 at 8 per cent	$1,148 00
Depreciation annuity	226 00
Maintenance and operating expense	1,583 00
Total	$2,957 00

As the utility's records are incomplete, it was impossible to determine the actual revenue received from the sale of water, but it was estimated that the revenue for 1921 at the present rates would be about $3,300. It is therefore apparent that an adjustment of rates is necessary rather than an increase, and the rates set out in the accompanying order are designed to distribute the charges uniformly and remove any discriminatory charges that may exist under the present schedules.

As to the complaint of the Quincy Fire District, it has been found by the Commission that it has no jurisdiction in matters of this kind. Reference is made to Decision No. 3114 in Case No. 617, *City of Alameda* vs. *Peoples Water Company,* decided February 21, 1916 (Vol. 9, page 234, Opinions and Orders of the Railroad Commission of California).

The town of Quincy formerly received water for fire protection through about sixteen hydrants, this service having been paid for by private subscription. Gradually, however, these payments ceased, until at this time hydrant service returns no revenue to the utility.

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ORDER.

Complaints against the Quincy Water Works having been made in the above entitled matter, a public hearing having been held and the matter having been submitted;

It is hereby found as a fact that the service rendered by Quincy Water Works is inadequate in some sections of the territory served; that the rates now charged by Quincy Water Works for water delivered to consumers are unjust and unreasonable in so far as they differ from the rates herein established; that the rates herein established are just and reasonable rates to be charged for such service, and that the Railroad Commission has no jurisdiction in the matters complained of by the Quincy Fire District;

And basing its order upon the foregoing findings of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, as follows:

1. That Quincy Water Works be and it is hereby directed to install prior to April 1, 1922, pipe lines of adequate size and capacity so that good and sufficient service may be rendered to all consumers.

2. That Quincy Water Works be and it is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order the following rates for water supplied to its consumers, such rates to apply to all service rendered subsequent to December 31, 1921:

Monthly Flat Rate Schedule.

1. Residences, boarding houses, flats, lodging houses, apartments, of five rooms and less	$1 00
For each additional room	10
Additional for each bathtub	25
Additional for each toilet	25
Additional for each private garage and one automobile	25
Additional for private barn and one head of stock	25
Additional for each automobile or head of stock over one	20
2. Sprinkling or irrigation of lawns, gardens, shrubbery, etc., when taken continuously, per 100 square feet	02
Sprinkling or irrigation of lawns, gardens, shrubbery, etc., when not taken continuously, per 100 square feet	05
3. Blacksmith shops, machine shops, lumber yards, printing offices, bakeries, undertaking parlors, grocery stores, theaters, warehouses, meat markets, drug stores, billiard parlors	1 50
4. Ice cream parlors, soda fountains and saloons, either alone or in connection with other business	1 50
5. Banks, professional offices, fraternal halls, club rooms, shoe shops, stores and offices not otherwise listed	1 25
6. Restaurants, lunch counters, per unit of seating capacity	10
7. Barber shop, per chair	1 00
Additional for each bathtub	1 00
8. Laundries, according to use	3 00 to 5 00
9. Railroad use, water motors, schools, according to use	5 00 to 8 00
10. Hotels—Dining room	2 00
Bedrooms, each	10
11. Public garages, 5 automobiles or less	2 50
For each additional automobile over 5	25

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12. Stables and feed yards, per average number of stock fed per month, each	$0 25
Private barn or garage, in connection with stores, hotels, etc., for each automobile or head of stock	25
13. Additional for each bathtub, toilet or urinal in 3 to 12 inclusive	25
14. Plumas County courthouse	20 00
15. Plumas County high school	15 00
16. Fire hydrants, each	1 00
17. Minimum monthly charge for each service connection	1 00

3. That Quincy Water Works be and it is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations governing service to its consumers, such rules and regulations to become effective upon their acceptance for filing.

4. That the complaint of Quincy Fire District be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-third day of November, 1921.

DECISION No. 9812.

IN THE MATTER OF THE APPLICATION OF BAY TRANSPORT COMPANY FOR A PERMIT AUTHORIZING IT TO ISSUE AND SELL THREE THOUSAND FIVE HUNDRED SHARES OF ITS CAPITAL STOCK.

Application No. 7276.

Decided November 26, 1921.

STOCK ISSUE—REPLACEMENT VALUE OF PROPERTY—INDEBTEDNESS.—Application to issue $275,000 against $285,000 claimed replacement value of property and applicant to assume an indebtedness of $207,562.93, modified to permit of issue of $77,500, the Commission holding that the indebtedness should be deducted from the claimed replacement value.

STOCK ISSUE—GOING BUSINESS.—Application to authorize issue of $25,000 of stock to acquire a going business denied.

STOCK ISSUE—WORKING CAPITAL.—Applicant permitted to issue not to exceed $50,000 of stock for cash at par, the proceeds to be expended as Commission may authorize by supplemental order.

Gregory and Goodell, by *T. T. C. Gregory*, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Bay Transport Company asks permission to issue $350,000 par value (3500 shares) of its common stock and to assume the payment of indebtedness aggregating $187,562.93.

Bay Transport Company was organized during September, 1921, with an authorized stock issue of $500,000, divided into 5000 shares of $100 each. Applicant proposes to purchase and operate steamers, barges, tugs and equipment for the carriage of freight as a common carrier between points in San Francisco and adjacent bays and streams.

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Applicant intends to acquire the following boats, now or formerly owned and operated by E. V. Rideout, doing business as and trading under the name of E. V. Rideout and Company: The steamship "Crockett," the steamship "Dauntless," the launch "Lucien," the tug "Falcon" and the barges No. 8 and No. 10. H. G. Ilderton, general manager of the Bay Transport Company and who has for some time past been in charge of the operation of the vessels, estimates the replacement value of the vessels at $285,000. The vessels, it appears, are insured for $194,500.

To acquire the vessels, applicant asks permission to issue $275,000 of stock and to assume the payment of indebtedness aggregating $187,562.93. In addition, applicant asks permission to issue $25,000 of stock in exchange for the going business which it intends to acquire and to issue and sell, for cash, at par, $50,000 of stock when necessary for working capital.

It appears from the record in this proceeding that a creditors' committee under an agreement dated December 14, 1920, took possession of certain steamers, barges and tugs owned by E. V. Rideout. H. G. Ilderton was appointed assignee with power to manage and operate the vessels subject to the control and direction of the creditors' committee for the benefit of the creditors. In this agreement the creditors agreed to bring no action to enforce any of their claims prior to December 14, 1923, and E. V. Rideout agreed to waive all provisions of the statute of limitations during such time. An agreement dated August 22, 1921, gives T. T. C. Gregory, trustee for certain persons interested in organizing Bay Transport Company, an option to purchase the steamships "Crockett" and "Dauntless," the launch "Lucien," the tugboat "Falcon" and the barges No. 8 and No. 10. He agrees to pay to E. V. Rideout $20,000, $5,000 of which is to be paid upon the delivery of a good and sufficient conveyance of title to the vessels executed pursuant to the agreement of August 22, 1921, and the possession of said vessels, their machinery, tackle and equipment; the remainder, $15,000, is payable in installments of $5,000 each in 60-day intervals from and after the initial payment. Upon and coincident with the initial payment, the Bay Transport Company agrees to assume the payment of $187,562.93 and take such steps as may be necessary to relieve E. V. Rideout from any liability on account of such indebtedness. It appears that the $20,000 payment will become an obligation of applicant, which added to the $187,562.93 of indebtedness, the payment of which it intends to assume, makes a total of $207,562.93.

I do not believe that the Commission is justified in authorizing applicant to issue $275,000 of stock against the vessels mentioned above. The indebtedness which applicant asks permission to assume

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and which it intends to obligate itself to pay amounts to $207,562.93. This indebtedness, it occurs to me, should be deducted from the alleged $285,000 replacement value of the vessels, which value is used as a basis for the purpose of this proceeding. If this is done, there remains a balance of $77,437.07. At this time applicant will be permitted to issue not exceeding $77,500 of stock on account of the purchase of the vessels. The matter of authorizing the issue of additional stock to refund indebtedness can be taken up in a subsequent proceeding if applicant concludes to refund part of such indebtedness through the issue of stock.

Applicant's request to issue $25,000 of stock to acquire a going business has been considered. This request will not be granted. For working capital applicant will be permitted to issue not exceeding $50,000 of stock for cash at par, provided that none of the proceeds be expended except for such purposes as the Railroad Commission may authorize by a supplemental order or orders.

I recommend that applicant be permitted to issue $127,500 of stock for the purposes set forth in the following order:

ORDER.

Bay Transport Company having applied to the Railroad Commission for permission to issue stock and assume the payment of indebtedness, a public hearing having been held and the Railroad Commission being of the opinion that applicant should be permitted to issue stock not in excess of $127,500 and that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required by applicant;

It is hereby ordered, that Bay Transport Company be and it is hereby authorized to issue not exceeding $127,500 of its common stock and to assume the payment of indebtedness referred to in this application, such indebtedness being reported at $207,562.93.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized to be issued, not exceeding $77,500 may be issued for the purpose of aiding in the acquisition of the vessels and property described in the foregoing opinion and in this application.

2. Of the stock herein authorized to be issued, $50,000 may be sold, for cash, at not less than par, provided the proceeds obtained from the sale of the $50,000 of stock be deposited in a special fund in some bank or banks, and expended only for such purposes as the Railroad Commission may hereafter authorize by a supplemental order or orders.

3. Bay Transport Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the pro-

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ceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

5. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before March 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-sixth day of November, 1921.

DECISION No. 9814.

IN THE MATTER OF THE APPLICATION OF SAN DIMAS-CHARTER OAK DOMESTIC WATER COMPANY FOR AN ADJUSTMENT OF ITS WATER RATES.

Application No. 6262.

Decided November 26, 1921.

Wm. Bowring, for Applicant.
P. M. Bangle and *E. H. Schuler*, for Consumers.

BY THE COMMISSION.

OPINION.

San Dimas-Charter Oak Domestic Water Company, applicant herein, is a public utility water company engaged in the business of selling and distributing water for domestic purposes in and in the vicinity of San Dimas and Charter Oak, Los Angeles County. In this application it is alleged that the schedule of rates at present in effect does not produce an income sufficient for maintenance and operation expense, replacement annuity, and an adequate return on the investment.

A public hearing in this matter was held before Examiner Westover at San Dimas, of which all consumers were duly notified and given an opportunity to appear and be heard.

This utility obtains its water supply through the ownership of 60 shares of stock in the San Dimas Water Company, a mutual concern. The water is delivered by gravity into a reservoir of low elevation, from which it is raised into the main distribution reservoir by pumping. Approximately 600 consumers are served, practically all of whom are metered.

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The present rates charged by the utility for metered service are as follows:

Minimum charge of $1.25 per month, which entitles consumer to 700 cubic feet of water. All use in excess of 700 cubic feet per month at the rate of 10 cents per 150 cubic feet, which is equivalent to 6⅔ cents per 100 cubic feet.

A few consumers are served at flat rates ranging from $1.25 per month upward.

At the hearing Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, submitted a report and appraisal of applicant's properties used and useful in the service of water to the public, showing an estimated original cost of the system to be $73,315; a replacement annuity, computed by the 6 per cent sinking fund method, in the amount of $1,844; and an estimated reasonable annual maintenance and operation cost of $10,165. No other evidence was introduced at the hearing relative to the cost of the plant. Applicant's statement of operating expenses for 1920 was found to contain items incorrectly charged, such as interest, replacements and depreciation, in the amount of $3,929.72. Deducting these items leaves a corrected operation expense for 1920 of $9,584. The estimate presented by Mr. Van Hoesen takes into account the present increased cost of power and other factors affecting the result. The estimates of the Commission's engineer appear reasonable and will be used for the purposes of this proceeding.

After carefully considering the evidence regarding the elements going to make up the sum which should be annually produced by rates, it appears that the following are reasonable:

Return on $73,315 at 8 per cent	$5,865 00
Replacement annuity	1,844 00
Maintenance and operating expense	10,165 00
Total	$17,874 00

The total operating revenue from this system for 1920 was $12,940.40. It is therefore apparent that this utility is entitled to an increase in its rates. However, it appears that the distribution system covers a large area, with the possibility of a considerable increase in the number of consumers without any considerable new construction. The annual reports of this utility indicate a progressive increase in the number of consumers and in gross income since 1913. It is reasonable to expect this growth to continue.

The schedule of rates set out in the following order is designed to return to applicant its maintenance and operation expenses, a proper replacement annuity, and a reasonable amount to apply as return on the investment.

ORDER.

San Dimas-Charter Oak Domestic Water Company having applied to the Railroad Commission for authority to adjust its rates for water

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served in and in the vicinity of San Dimas and Charter Oak, Los Angeles County, a public hearing having been held, and the matter having been submitted:

It is hereby found as a fact that the rates and charges of San Dimas-Charter Oak Domestic Water Company, in so far as they differ from the rates herein established, are unjust and unremunerative, and that the rates and charges herein established are just and reasonable rates.

And basing its order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that San Dimas-Charter Oak Domestic Water Company be and it is hereby authorized to file with the Railroad Commission within twenty (20) days from the date of this order the following schedule of rates, the same to supersede all rate schedules of this system heretofore in effect and to be and become effective on and after December 31, 1921.

Metered Rates.

Monthly minimum charges—	
For ⅝-inch by ¾-inch meter	$1 25
For ¾-inch meter	1 50
For 1 -inch meter	1 75
For 1½-inch meter	2 00
For 2 -inch meter	2 50
Monthly metered rates—	
From 0 to 500 cubic feet, per 100 cubic feet	$0 25
From 500 to 5000 cubic feet, per 100 cubic feet	15
Over 5000 cubic feet, per 100 cubic feet	10
Flat rates—	
All flat rates will remain the same as those now in effect and filed with the Railroad Commission.	

Dated at San Francisco, California, this twenty-sixth day of November, 1921.

DECISION NO. 9821.

IN THE MATTER OF THE APPLICATION OF VAN NUYS WATER SYSTEM, A COPARTNERSHIP CONSISTING OF J. BENTON VAN NUYS, KATE VAN NUYS PAGE AND ANNIS VAN NUYS SCHWEPPE, TO DETERMINE EXTENT OF SYSTEM.

Application No. 5834.

Decided November 29, 1921.

WATER UTILITY—SERVICE AREA—EXTENSION OF SERVICE.—As present demand upon this system is fully up to capacity of the wells and service of additional demand in present service area is an obligation from which there is no escape, it is held inadvisable to compel the utility indefinitely to extend its service beyond the present service area.

Oscar C. Mueller, for Applicant.
H. S. Farrell, for City of San Gabriel.

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Geo. Sanborn, in propria persona, and for certain consumers.
Peter C. Mahn, in propria persona.
R. Cooper, in propria persona.
R. Kuban, in propria persona.

BRUNDIGE, *Commissioner.*

OPINION.

Applicant in the above entitled proceeding alleges in effect that owing to the limited water supply which can be obtained from its wells there is danger that the system may be overtaxed and unable to supply the demands made upon it if all applications for service are granted. The Commission is therefore asked to define the limits of the territory to be served in order that plans may be made for the future operation of the system.

A public hearing was held in Los Angeles, of which all interested parties were given an opportunity to be present and be heard. The Van Nuys Water System also filed an application for permission to increase rates (Application No. 5386), which was combined for hearing with the above entitled proceeding. For the purpose of clarity, however, and to avoid confusion of the issue involved, the decisions in the two matters have been rendered separately.

The Van Nuys Water System is a public utility supplying water for domestic and irrigation purposes partly within the limits of the city of San Gabriel and partly within an adjacent unincorporated district in the county of Los Angeles. The system supplies approximately 734 consumers, of whom 644 are users of water for domestic purposes and 90 for irrigation.

The evidence shows that for some time past the demands upon the system have been fully up to the capacity of the wells, and that a very considerable additional demand is possible in the future when application is made for water supply for undeveloped lands within the present service area. Service to this partially developed area is an obligation resting upon the utility and from which there is no escape.

The evidence also shows that the utility's present service area is entirely surrounded by other water systems, either public utilities, mutual water companies or private water plants.

It is not known to what extent the supply of water can be increased, and, therefore, in order to safeguard the present consumers and those who doubtless will in the relatively near future become consumers, it would appear inadvisable to compel this utility to indefinitely extend service to applicants outside the present service area.

I submit the following form of order:

ORDER.

Van Nuys Water System, a copartnership consisting of J. Benton Van Nuys, Kate Van Nuys Page and Annis Van Nuys Schweppe, hav-

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ing made application in the above entitled proceeding, a public hearing having been held, and the matter having been submitted:

It is hereby found as a fact that the interests of present and future consumers under the Van Nuys Water System will be best served by a delineation of the boundaries of the area within which this utility is obligated to supply water;

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion preceding this order;

It is hereby ordered, that Van Nuys Water System, a copartnership consisting of J. Benton Van Nuys, Kate Van Nuys Page, and Annis Van Nuys Schweppe, be not required to assume new service obligations outside the areas delineating the limits of the territory supplied with water for domestic and irrigation use, as shown by a certain amended map filed by stipulation with this Commission subsequent to the hearing of Applications No. 5386 and No. 5834, and marked Applicant's Exhibit No. 10.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of November, 1921.

DECISION No. 9822.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN AND EASTERN RAILROAD COMPANY FOR AUTHORITY TO ABANDON GRABNER STATION ON THE RAILWAY LINE OF SAID COMPANY.

Application No. 7369.

Decided November 29, 1921.

BY THE COMMISSION.

OPINION.

San Joaquin and Eastern Railroad Company, a corporation, has applied to the Railroad Commission for authority to abandon Grabner station in Fresno County.

The application alleges that the station of Grabner is located in Fresno County at a point intermediate between the stations of Wellbarn and McKenzie, the station of Wellbarn being located west of Grabner, and distant therefrom 1.5 miles; the station of McKenzie being located east of Grabner, a distance of 1.8 miles. During the twelve months preceding the filing of the application, the number of passenger tickets and cash fares sold and collected at Grabner station was twenty-three, resulting in a revenue of $33.65. During the same period there were received 3723 pounds of freight, with a revenue of

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$6.13. No freight has been forwarded from this point nor has any freight in carload lots been received during the twelve months period.

In view of the verified allegations contained in the complaint, the Commission is of the opinion that this is a matter in which a public hearing is not necessary and that, in view of the slight revenue derived (amounting to but $3.32 per month) and the close proximity of other stations, that the application should be granted.

ORDER.

San Joaquin and Eastern Railroad Company, a corporation, having applied to the Railroad Commission for authority to close its station at Grabner in Fresno County, the Commission being fully advised and of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted;

It is hereby ordered, that this application be and the same hereby is granted subject to the following conditions:

Before the closing and discontinuance of the agency at Grabner, applicant, San Joaquin and Eastern Railroad Company, will be required to post a notice of such closing at its station of Grabner and all other agency stations on its line of railroad, such posting of notices to be made ten days prior to the date of the closing of the station and a copy of such notice to be filed with the Railroad Commission.

Dated at San Francisco, California, this twenty-ninth day of November, 1921.

DECISION No. 9823.

IN THE MATTER OF THE APPLICATION OF PENINSULAR RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR TRANSPORTATION OF PASSENGERS ON ITS LINES IN THE STATE OF CALIFORNIA.

Application No. 6413.

Decided November 29, 1921.

RATE FABRIC—INTERURBAN SYSTEM—PALO ALTO CITY LINES—RETURN ON INVESTMENT.—Since applicant is not asking in this case an increase in its entire rate fabric it is held that the patrons of the Palo Alto line should not be compelled to pay an excessive rate in order to enable applicant to make a small increase in its net return on the investment of the entire system.

RATES—EFFECT WHEN TOO HIGH.—When rates are too high, because of economic conditions, they not only retard and reduce the earnings of the carrier but result in loss to the traveling public, who, finding themselves unable to employ the facilities of the carrier, either go without the service entirely or turn to the other channels of travel. In a situation of this kind it becomes the duty of this Commission to deny increases in fares which would have the effect of further reducing passenger earnings by driving travel to the automobiles.

Wm. F. James and *E. C. Edgerton*, for Applicant.
Archer Bowden, City Attorney, for City of San Jose.

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W. D. Wall, for Traffic Bureau San Jose Chamber of Commerce.
Norman E. Malcolm, City Attorney, for City of Palo Alto.

LOVELAND, *Commissioner.*

OPINION.

In this application Peninsular Railway Company seeks an order for authority to increase certain passenger fares, alleging as a reason therefor a net loss during the nine months ending September 30, 1920, of $235,645.87.

Attached to the application, as Exhibit "C," are copies of tariffs and schedules showing specifically the rates it is proposed to increase. Briefly, these are as follows:

1. Straight fare to be increased from 6 cents to 10 cents:
   (*a*) Between San Jose and Cherry avenue.
   (*b*) Between San Jose and Bascome avenue.
   (*c*) On Naglee Park line in San Jose.
   (*d*) On Palo Alto city lines.
2. Seven-cent token fares are to be sold five for 35 cents on the above lines.
3. One-way zone fares on the main line to be increased from 8 cents to 10 cents.
4. School children's 46-ride commutation fares on the lines mentioned under Item 1 are to be increased from $1.85 to $2.22.

Applicant operates daily electric interurban service—passenger and freight—between San Jose, Palo Alto and Los Gatos (designated the main line) and on Sundays and holidays between San Jose and Alum Rock Park, using in part the tracks of the San Jose Railroads, which operates this line the balance of the time. Street car service is operated on the Naglee Park Line in San Jose between San Jose and Bascome and between Palo Alto and Stanford University. It is evident, therefore, that no increase is asked for main-line or interurban fares, except as in Item 3 above. The fares in Item 1 (*a*) are really the city line fares, although the service is performed by interurban cars.

It may be here noted that the Southern Pacific Company, through ownership of all of the capital stock, is in direct control of applicant; also that the same set of officers, as well as many employees, act for the San Jose Railroads and for the Peninsular Railway Company, the former being controlled by the Southern Pacific in the same way as is the Peninsular Railway. Between Mayfield and Vasona Junction—sixteen miles—one track of applicant is leased to Southern Pacific Company.

During the first hearings, held March 1 and 2, 1921, the Commission was asked to have its engineering department prepare a valuation and a report on the service and operation of this carrier. This request was granted.

At the second hearing, held August 12, 1921, Application No. 6414 of the San Jose Railroads was also considered and Mr. Weeks of the

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engineering department submitted a report on the service, operating and financial conditions of both the San Jose Railroads Company and Peninsular Railway Company, this report being identified as Commission's Exhibit No. 2.

At the first hearings a valuation submitted by applicant upon the Commission's order in Case No. 133 was stipulated into the evidence in this proceeding, witness for applicant stating that the reproduction value therefrom as of June 30, 1914, was $4,480,190.69; that additions and betterments from the above date to September 30, 1920, amounted to $178,822.72 and by adding this to the original valuation arrived at a total as of September 30, 1920, of $4,659,013.41.

In the Commission's Exhibit No. 2 it is stated that the engineering department never verified or made a check of this valuation; the reason this was not done being because the rate of return is so small and the impossibility of any fair return so obvious that the value of the property is not an important factor in the fixing of the fares upon this road.

The cost of applicant's physical property can be approximately but not accurately determined, the loss of certain records preventing such accurate determination. Applicant's valuation department made, in connection with the valuation, a check of such records as exist and, as far as possible, distributed charges in accordance with the prescribed classification of expenditures. Since, however, the total thus arrived at includes certain figures for securities, these should be excluded in stating the cost of physical properties. As a result of such exclusion the Commission's Exhibit No. 2 shows two figures—$3,562,147 and $3,244,106—but states it is not, for the reason stated in the previous paragraph, essential at this time to reconcile these figures one with another or with the totals given in the company's valuation.

Considerable evidence was introduced with respect to revenues, operating expenses, taxes and other costs as of and for different periods. The application deals with one set of figures—those for the nine months ending September 30, 1920. At the first hearing another set, preliminary figures for 1920, was introduced and it was then stipulated that the annual reports should be considered in evidence and these reports show a third set of revised figures for the calendar year 1920. In Commission's Exhibit No. 2 is still another set of figures, restated in some respects from the 1920 annual reports and as these figures are

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for the latest period available and form the basis of final oral evidence they are set forth below:

Present Scheme of Operations—1920.

Gross revenue	$354,417 00
Operating expenses	358,752 00
Railway operating revenue—Loss	$4,335 00
Taxes	18,786 00
Operating income—Loss	$23,121 00
Nonoperating income, net	30,425 00
Gross income	$7,304 00

Additional Revenue and Savings.

Estimated savings in cost of operation	$8,031 00	
Estimated net revenue from San Jose railroads	6,615 00	
		$14,646 00
Total		$21,950 00
Company's valuation		4,643,666 00
Return		0.47%

In addition, the following summary may also be taken from this Exhibit:

Due to disturbed industrial conditions, particularly in the fruit canneries, which materially affect both the passenger and freight revenue of this road, and because of the fact that at this writing the company is about to change its schedule and reduce some of its main line fares, the company officials are unwilling to make an estimate of what this road's revenues and expenses will be. Since, however, the company earned last year only 0.16 per cent on its own valuation, and since it must be obvious that fares can not be installed which will enable it, as a whole, to earn anything like a fair return on any reasonable valuation, this estimate of future earnings and expenses do not seem particularly important.

We estimate, however, that revenues may be increased $14,646, as shown in the table and as will be explained; $6,615 of this figure is due, to our belief, that San Jose Railroads should adequately compensate Peninsular Railway Company in the matter of shop and store expenses, the latter furnishing land, buildings and equipment for the use of the former and for such use inadequate compensation having been previously charged, and that Peninsular Railway should be charged with a fair rental by San Jose Railroads for use of the latter's general offices.

Applicant has asked authority to increase zone fares on the main line, a relatively negligible matter; to increase fares on its lines in the city of San Jose, the answer to which appears to us to lie with the decision as to fares on San Jose Railroads; increase its fares on the Palo Alto city lines, submitting in support of the latter a statement showing that the return (on the Palo Alto city lines) is $3,825.10 less than a return of 6 per cent on the valuation of the properties used. Due to minor exceptions we take in this statement as to expenses, to economies which can be effected, and to the normal growth of business—particularly as evidenced in the past six months—we believe that the company can earn a return (on the Palo Alto city lines) of 9.5 per cent and without such economies we find it is actually earning 8.1 per cent.

If the requested increase in fares were granted and the increase added to the revenue of the Palo Alto city lines to the extent of 8 per cent, as estimated by the company, we find the return would then be 11.6 per cent.

Included in the savings mentioned for the Palo Alto city lines is a substantial saving in power losses which could be effected by moving existing substation equipment from Los Altos to Palo Alto. Further economies in substation operation could be effected by providing for automatic operation of substations at Los Altos and Palo Alto. This, however, requires an expenditure of $17,200.

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It also was found that some saving, together with a very material improvement in service, could be effected by changing the principle of operation of main-line cars and changing to one-man operation on the Campbell line. Our investigation disclosed that main-line cars were standing at terminals nearly one-third of the time and the change herein suggested is predicated on the theory that if this standing time were eliminated, the additional car miles run, together with a better arrangement of leaving times, would result in not only better service, but increased revenue. We have, however, not estimated the amount. We understand a new schedule based largely upon our findings is shortly to be put into effect.

The record does not indicate any exception being taken to the figures given above. The direct result of this situation is found in that these figures may be accepted as facts surrounding the results of the operation.

Commission's Exhibit No. 2, page 52, gives the total revenue from the Palo Alto city lines for the year 1920 as $50,540 and the estimate for 1921 as $56,500 and if the proposed fare increases were authorized and the company's estimate of 8 per cent additional gross revenue were realized the annual revenue is estimated at $61,000. It is to be noted that the Palo Alto city lines are now earning 8 per cent on the company's own valuation of this particular property and that if certain economies were practiced a return of 9.8 per cent would be earned; further, that if the rates were increased and as a result the gross revenue increased to the extent of 8 per cent, the net return on the investment at Palo Alto would then be equal to 11.6 per cent.

The testimony showed that the Palo Alto city lines, while forming a part of the Peninsular Railway System, are operated entirely separately from the interurban service, no interurban cars or car employees being used thereon. The representative of the city of Palo Alto took the position that the city lines are not necessarily a part of the interurban system, but rather represent a distinct street car service in and of themselves.

If the interurban system of the Peninsular Railway were entirely discontinued, the Palo Alto city lines could, nevertheless, operate with profit under the management of the same officials that handle the San Jose Railroads, all of which properties are owned by the Southern Pacific Company.

If applicant were before the Commission asking for a general increase in its entire rate fabric the Palo Alto lines would, without doubt, be required to stand the same general increase, but since this is not suggested we are of the opinion that the patrons of the company using the street car line between Palo Alto and Stanford University should not be compelled to pay an excessive rate in order to enable applicant to make a small increase in its net return on the investment of the entire system.

The Naglee Park Line is strictly a street car service, operated by Birney one-man cars, located entirely within the city of San Jose;

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so far as the traveling public is concerned it is virtually a part of the San Jose Railroads, transfers being exchanged between the two city lines, but not with the interurban line of the Peninsular Railway. The passengers of the Cherry avenue and the Bascome avenue lines are carried on both the interurban and the local cars and these lines—Cherry avenue and Bascome avenue—are about three miles from the business center of San Jose, but without the city limits. The fares on these two lines were, sometime ago, increased from 5 to 6 cents, the same as the fare increase authorized between points on the San Jose Railroads.

The adjustment now proposed for the transportation of passengers on the Cherry avenue, Bascome avenue and Naglee lines is an increase in the single fare from 6 to 10 cents, with the sale of five token fares for 35 cents, or at rate of 7 cents per ride, and is the same as proposed on the San Jose Railroads in Application No. 6414, filed the same day as this proceeding and heard jointly herewith. It therefore appears to be applicant's position and intention to maintain the same relationship of street car fares on the Peninsular Railway as is charged by the San Jose Railroads, and there seems to be no good reason for permitting a change in this practice.

I therefore recommend that there should be no increase in the local street car fare of this applicant, particularly when the estimated increases for the Peninsular Railway will have such a negligible effect on the revenue of the system as a whole.

The proposed increase in zone fares on the main line from 8 cents to 10 cents are, according to the company's traffic manager, merely paper rates, appearing in the tariffs solely for the purpose of having a rate to apply for the occasional passenger who makes use of the service. Practically no revenue accrues under these rates, therefore no reason exists for making the change.

As to the proposed increase in school children's 46-ride commutation fare from $1.85 to $2.22, I am also of the opinion no justification has been offered for the change.

In that part of the Commission's Exhibit No. 2 heretofore quoted, it will be noted that the revenues of the Peninsular Railway Company should be increased $6,615 annually by the San Jose Railroads adequately compensating the Peninsular Railway in the matter of shop and store expenses and, on the other hand, that the Peninsular Railway should be charged a fair rental by the San Jose Railroads for the use of its tracks and general offices. These intercompany charges should be made in such manner that each road would bear an equitable portion of the expenses. Under the present arrangement it would

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appear the burden of the expenses of shop and stores rests unfairly with the Peninsular Railway.

It is further recommended that savings and improved service can be effected by the Palo Alto city lines by moving the existing substation equipment from Los Altos to Palo Alto. There is also a possibility of increasing revenues by economies in operation; that is, by changing the principles of operation of main-line cars, and changing to one-man operation on the line to Los Gatos via Campbell.

In the closing argument attorney for applicant made this statement:

> We believe the owners of this property have a right themselves to assume to take the risk, if any exists, of the loss of business through increased fares; that it does not lie within the discretion of the city or the Commission to say to this company "We won't permit you to take the risk with your property." We think the company itself has the right to take that risk, assuming now that the increase is justified on a proper rate base and won't produce unreasonably high earnings. So we want to frankly announce our position in that regard. We want to take the risk. We don't think it is risk, but if there is any we want to take it and the company will suffer all the bad effects and the public none if we lose.

It is a fact, however, that the increases asked for do not materially increase the revenue of the road as a whole, certainly not up to the point where it would earn anything like a fair return. It is equally true that the Palo Alto city lines are now earning a fair return.

The annual report, however, for the year ending December 31, 1920, shows that as compared with 1919 the railway operating revenue increased by $48,035.70; the operating income by $24,441.78, and gross income by $22,630.91. The principal increases in expenses in 1920 over 1919 occurred in the maintenance of track and roadway and in conducting transportation. These items involve, principally, labor and materials, which are gradually reducing in cost, and in reaching a conclusion in this situation consideration has been given to probable continued reductions.

There is, also, every indication of an advance in the volume of traffic if the present rates are maintained, for the gross railway operating revenue was $7,887.65 higher in 1919 than in 1918 and $48,035.70 higher in 1920 than in 1919, or a total increase of $55,923.35 in the two years 1919-1920 as compared with the year 1918.

This applicant has received a number of increases in its passenger fares and freight rates during the past few years, and I am of the opinion that to further increase these particular passenger fares at this time would be out of harmony with the spirit and purpose of the Public Utilities Act, which recites in section 13 that all charges must be just and reasonable.

When rates are too high, because of economic conditions, they not only retard and reduce the earnings of the carrier but result in loss to the traveling public who, finding themselves unable to employ the

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facilities of the carrier, either go without the service entirely or turn to the other channels of travel. In a situation of this kind it becomes the duty of this Commission to deny increases in fares which we believe would have the effect of further reducing passenger earnings by driving travel to the automobiles.

The application should be denied without prejudice.

ORDER.

Peninsular Railway Company having applied to the Railroad Commission for authority to increase certain of its passenger fares as shown in Exhibit C attached to its application, a public hearing having been held, the matter having been submitted, and for the reasons stated in the foregoing opinion;

It is hereby ordered, that the application herein be and it is hereby denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of November, 1921.

DECISION No. 9824.

IN THE MATTER OF THE APPLICATION OF SAN JOSE RAILROADS FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PASSENGERS ON THE LINE OF THE SAN JOSE RAILROADS IN THE STATE OF CALIFORNIA.

Application No. 6414.

Decided November 29, 1921.

INCREASE IN REVENUE—RIGHT TO TAKE RISK.—The Commission announced that it can not subscribe to the doctrine advanced by applicant, that it had the right to take the risk that increased fares would not result in increase in revenue.

FINANCIAL REQUIREMENTS—FAIR RETURN.—Holding that financial requirements are not a proper basis for computing rates and that there is now under existing rates a substantial operating income, it is concluded that with suggested economies and changes, net earnings contributing a reasonable and fair return may be expected.

Wm. F. James and *E. O. Edgerton*, for Applicant.
Archer Bowden, City Attorney, for City of San Jose.
W. D. Wall, for Traffic Bureau San Jose Chamber of Commerce.

LOVELAND, *Commissioner.*

OPINION.

In this application San Jose Railroads, a corporation, makes application for an order authorizing an increase in fares. In brief, these

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increases, as taken from Exhibit C attached to the application, are as follows:

(1) Increase present 6-cent fare to 10-cent straight fare, or token fare of 7 cents at five tokens for 35 cents.
(2) Increase present fares on short extensions outside of San Jose to correspond with above.
(3) Readjust 46-ride school commutation fares as follows:
Where now $1 85 increased to $2 22.
Where now 2 70 reduced to 2 63.
Where now 3 60 reduced to 3 48.
(4) Cancel 125-ride cash coupon fare and substitute 30-ride commutation fare at twenty times the one-way fare where this is in excess of 12 cents.

As a reason for such increase in fares the application alleges that applicant's revenues "are insufficient to meet its fixed charges, operating expenses, taxes and depreciation," and further states it is necessary that its passenger rates and fares be increased in such amounts "that taking such increase, together with its present passenger revenue and revenue from all other sources, there will be returned to your petitioner a revenue at least sufficient to meet the annual fixed charges, taxes and operating expenses." In Exhibit B, attached to the application, is shown a net loss of $89,432.28 for the nine months ending September 30, 1920, this loss being as follows:

Summarized Statement for Nine Months Ending September 30, 1920.

Operating revenue		$298,105 78
Nonoperating revenue		442 55
Total gross revenue		$298,548 33
Operating expenses		$213,331 37
Taxes and depreciation		21,840 33
Fixed charges		147,073 46
Miscellaneous debits		5,735 45
Total expenses		$387,980 61
Total expenses	$387,980 61	
Total revenues	298,548 33	
Net loss	$89,432 28	

It will be noted that the statement of expenses includes fixed charges and miscellaneous debts, the fixed charges being for the most part interest on funded debt.

Hearings were held at San Jose on March 1 and 2 and August 12, 1921. At the last hearing the matter was submitted, protestants, however, being allowed to submit a brief with the privilege of reply by applicant. A brief was filed but no reply made.

At the first hearing witness for applicant, during cross examination in connection with Exhibit No. 2, explained that for the year 1920 there was a profit of $75,000 net return that should be tested against the rate base as a measure of whether or not these properties were

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earning a fair return. It was therefore determined that a valuation should be made by the engineering department of the Commission, and an investigation made into the service and operating conditions of applicant. At the hearing held in August, Mr. H. G. Weeks of the Commission's engineering department introduced a valuation of the properties of the San Jose Railroads and a report on service, operating and financial conditions of the San Jose Railroads and Peninsular Railway Company, the former being identified as Commission's Exhibit 1 and the latter as Commission's Exhibit 2.

The valuation is as of December 31, 1920, and the totals found are as follows (Commission's Exhibit 1):

Class of property	Historical reproduction cost	Condition per cent	Historical reproduction cost less depreciation
Operative property	$1,523,933 00	68	$1,034,866 00
Nonoperative property	16,258 00	93	15,166 00
All property	$1,540,191 00	68	$1,050,032 00

The valuation figures given do not include materials and supplies; they cover only such items as are properly chargeable to investment in road and equipment (Interstate Commerce Commission Account No. 401).

Applicant operates a street railway, giving passenger service exclusively, located partly within the city of San Jose, partly within the town of Santa Clara and partly in Santa Clara County, unincorporated.

The following tabulation shows the segregation of the 36.8 miles of track on the system:

City of San Jose	24.9 miles
Town of Santa Clara	2.6 miles
Santa Clara County	9.3 miles

The original cost of these properties can not be ascertained because of the nonexistence of earlier supporting detail records. Exhibit No. 1, however, indicates that the investment in the physical properties is approximately $1,300,000. The earlier bookkeeping did not follow prescribed rules and the total found, therefore, is not readily comparable with the historical reproduction cost predicated upon the present prescribed accounting.

No exception was taken to the valuation figures as presented, except in connection with the rate base, as will hereafter be mentioned.

Inasmuch as Commission's Exhibit A (valuation of Peninsular Railway) formed the basis of argument for both applicant and protestants, it will be convenient to quote the principal conclusions on the question

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of the rate of return. The engineering department finds the following figures for the San Jose Railroads:

	1920 Restated	1921 Estimated	Year to June, 1922
Gross revenue	$103,490 00	$106,633 00	$106,663 00
Operating expenses, including depreciation	311,778 00	314,264 00	308,966 00
Railway operating revenue	$91,712 00	$92,399 00	$97,697 00
Taxes	21,911 00	23,138 00	23,138 00
Operating income	$69,801 00	$69,261 00	$74,559 00
Additional revenue and savings in operation exclusive of use of Birney cars			16,043 00
Net available for return	$69,801 00	$69,261 00	$90,602 00
Historical reproduction cost as of December 31, 1920	$1,523,933 00	$1,523,933 00	$1,523,933 00
Return on above	4.58%	4.54%	5.95%

Exhibit No. 2 states:

It will be noted that for the ensuing year it is estimated that, continuing the present 6-cent regular fare, but with certain additional revenue and as a result of certain economies in operations, a return of 5.95 per cent can be earned. This compares with a maximum return earned of 7.08 per cent in 1913 and an average return for the past nine years of 4.49 per cent, as shown in Table 3 B.

Applicant has requested authority (with other less important increases) to install a 10-cent straight fare with tokens at 7 cents, estimating the result of this increase in fare at 8 per cent of the present passenger revenue, or $31,502. If this additional revenue is realized the rate of return on our historical reproduction cost valuation would be 8.01 per cent.

Because of the fact that our studies show that only 25 per cent of the people leave the business district in San Jose during the rush hours in street cars, 75 per cent using automobiles, we seriously doubt whether the increase in fare as requested will actually produce any more revenue. Again, since we have no data showing the result of an analogous *second* fare increase, as requested by the applicant, we do not feel willing to accept its estimate of an increase of 8 per cent in revenue, particularly when this is considered along with the above statement regarding automobile traffic.

Additional Revenue and Savings in Operation.

The figure of $16,043 above includes $3,606 additional revenue estimated as resulting from our recommendation to route the Seventh street line along First street, and savings in the cost of operation as follows:

Abandon Hobson street bus line	$5,759 00
Abandon Santa Clara depot line	2,678 00
Change to parallel parking in business district	4,000 00
Total	$12,437 00

On May 1, 1921, the company placed in operation a total of twenty-two Birney cars and radically changed its system of operation. The saving due to the use of these safety cars, together with a reduction of power rate and revised system of operation, is approximately $15,000 per year and is included in operating expenses as stated in the last two columns of the above table.

San Jose Railroads is controlled through stock ownership by Southern Pacific Company and is operated by the same set of officers as

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Peninsular Railway Company, which is subject to the same control. The relation between the San Jose Railroads and Southern Pacific Company is important, in that if the Southern Pacific did not exercise such control and elect to continue it, and assume the high interest charges resulting from a funded debt of $2,423,000 par value of bonds outstanding against the historical reproduction cost of $1,523,933, the instability of the financial structure would force financial reorganization. This is apparent from the fact that the maximum return of $84,000, as will be developed, does not equal the annual interest charges accrued, which, for the year 1920, were $118,108.91.

There are two bond issues on the properties of the San Jose Railroads, as follows:

	Date		Par amounts as of December 31, 1920		
	Issued	Due	Authorized	Issued	Outstanding
1. San Jose Railroad first mortgage 5 per cent	1910	1955	$1,500,000 00	$1,416,000 00	$1,335,000 00
2. San Jose and Santa Clara County Railroad first refunding 4½ per cent	1906	1946	1,500,000 00	1,250,000 00	1,088,000 00
			$3,000,000 00	$2,666,000 00	$2,423,000 00

Southern Pacific Company owns all of the San Jose Railroads' bonds and it seems extremely important to note that these bonds were issued after the Southern Pacific acquired control of San Jose Railroads, when there was already an issue approximately equal to the security and, further, that Southern Pacific Company, having both issued and retained possession of the bonds, is the only party interested in this issue. Of the San Jose and Santa Clara County Railroad bonds, the testimony indicates that all of these bonds are in the hands of the public. The interest charges at 4½ per cent of the amount outstanding aggregate $48,960 a year, or approximately 58 per cent of the amount available for interest.

Applicant noted certain exceptions to the figures and statements above quoted and since these were directed in part toward the return

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earned previously by applicant, the following figures from Table 3-B of this same exhibit will now be given:

Year ending	Valuation as of Dec. 31, 1920, less yearly additions	Net available for return	Rate of return
June 30—			
1912	$1,442,255 00	$57,996 00	4.02%
1913	1,423,889 00	100,855 00	7.08%
1914	1,485,098 00	92,698 00	6.24%
1915	1,488,365 00	78,037 00	5.24%
1916	1,528,790 00	68,983 00	4.51%
December 31—			
1916	1,481,284 00	56,889 00	3.84%
1917	1,533,097 00	31,917 00	2.08%
1918	1,563,189 00	43,145 00	2.76%
1919	1,596,172 00	71,710 00	*4.49%
1920	1,523,933 00	74,483 00	4.89%
Average			4.492%

*Fare increased 20 per cent in August, 1918.

In the first quotation it is noted that $3,606 additional revenue is estimated as resulting from the recommendation to route the Seventh street line along First street. The general manager for applicant, a witness, took exception to this and stated that in his opinion no additional revenue could be so obtained. The engineer responsible for this particular estimate explained how he had arrived at this figure and it was arranged that the matter should be jointly reviewed. As a result, it is estimated that $1,000 per year additional revenue could be expected.

Applicant also took exception to the estimated saving in the cost of operation by reduction in damage claims to result from a change to parallel parking of automobiles in the business district. From the testimony and after review of a report filed subsequently it is estimated approximately $500 could be saved.

Witness for the Commission stated that since a street railway collects its revenue daily in cash in advance nothing is included in the rate base for working cash capital, the historical reproduction cost being taken direct from the valuation without any additions or subtractions. Applicant contended that it is necessary at all times to have a certain amount of cash on hand, but made no statement as to what this amount should be. Although possibly some small amount should be added, it is negligible when contrasted with the amount of rate base and may be omitted in this proceeding.

The effect of consideration of these three exceptions changes $16,043 in the first quotation above to $9,937, the $90,602 to $84,496, and the

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possible return of 5.95 per cent to 5.55 per cent. The return under proposed rates, of 8.01 per cent becomes 7.61 per cent. In other words, the best possible return with present fares is 5.55 per cent and if applicant's increased fares produce the expected increase, 7.61 per cent.

With these revised figures, to which there seems no possibility of further exception, the position of applicant may be considered.

Counsel for applicant took the position that even the estimated best return under present rate of fare of 5.55 per cent is confiscatory and that with respect to the possibility of no increase in revenue from its proposed increases in fare contended that

> It is their right to take that risk, assuming now that the increase is justified on a proper rate base and won't produce unreasonably high earnings. So we want to frankly announce our position in that regard. We want to take the risk. We don't think it is a risk, but if there is any we want to take it, and the company will suffer all the bad effects and the public none if we lose.

This is a doctrine to which the Commission can not subscribe.

Counsel for protestants, city of San Jose and San Jose Chamber of Commerce, urge that no increase in fares be authorized, taking a position contrary to that of counsel for applicant, and sustaining the Commission's conclusion that the proposed increased fares would not at this time increase applicant's revenue. Counsel for city of San Jose urged that this opinion is not casual, but based upon the facts as they exist in the city of San Jose, and supported his contention by the evidence of several witnesses, who are business men of San Jose. The testimony as presented was supported by a study of traffic and general industrial conditions, compiled by the Commission's engineering department, while on the other hand the applicant produced no evidence in support of its contention.

While there has been no apparent increase in business, this is, no doubt, a temporary condition. San Jose has a good record of growth in population, with no indication that such growth has been arrested. The number of passengers and revenues should increase; operating expenses because of declining costs of labor and materials, should decrease. The estimated net income of over $84,000, *supra*, is greater than any year except 1913 and 1914, before the general use of the private automobile. Returns in the future, then, should be greater and not less than 5.55 per cent.

The increases estimated in net revenue, because of rerouting, abandonment of service, and changes in the automobile parking system, require the cooperation of the city of San Jose and while the record shows no opposition by the city to these changes counsel for the city stated he had not the authority to speak for the city on the subject.

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Under these circumstances, it appears the best policy is to give applicant an opportunity to put into effect our recommended changes in service, the changes in the automobile parking system, the changes in intercompany accounting, to realize such additional revenue and economies as may result, to allow a further study of operation under suggested changes, and to test our conclusion that the lack of increase of revenue which was apparent last summer was the result of only a temporary depression and that the revenues of this road will continue to increase with the growth of the community.

It appearing that applicant's so-called financial requirements are not a proper basis for computing rates and that there is now under existing rates a substantial operating income, that certain operating economies are possible and should be instituted, together with certain relief which the city of San Jose could grant and that, considering also the likelihood of speedy recovery from the temporary depression of applicant's revenue, net earnings contributing a reasonable and fair return may be expected, I conclude that this application should be denied.

The efficient and reasonable regulation of public utilities certainly contemplates that consideration must be given to every important factor and the probable result of the action of this Commission upon the operations of the company and the effect upon the people, in a case where new rates are asked, certainly is such an important factor.

If, however, within a reasonable time it shall appear that the conclusions and estimates upon which this opinion is based can not be substantiated by developments, the matter can again be considered by the Commission.

I recommend the following form of order:

ORDER.

San Jose Railroads Company having applied for permission to make specific increases in rates of fare, public hearings having been held and the matter having been submitted, for the reasons stated in the foregoing opinion;

It is hereby ordered, that the application be and it is hereby denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of November, 1921.

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DECISION No. 9826.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE AND SELL SEVENTY-FIVE THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 7373.

Decided November 30, 1921.

Roy V. Reppy, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

Southern California Edison Company asks permission to issue and sell at not less than $94 per share net, 75,000 shares ($7,500,000) of common stock and use the proceeds obtained from the sale of the stock for such purposes as the Railroad Commission may hereafter authorize in a supplemental order or orders.

Southern California Edison Company has an authorized stock issue of $100,000,000, divided into $4,000,000 of first preferred, $12,500,000 of second preferred and $83,500,000 of common. In Exhibit "1," filed in the above entitled proceeding, applicant reports stock outstanding and subscribed for on September 30, 1921, as follows:

First preferred	$4,000,000 00
Second preferred	12,029,900 00
Common outstanding	*34,383,700 00
Common subscribed	4,672,200 00
Total	$55,085,800 00

Applicant is now paying dividends at the rate of 8 per cent per annum on its outstanding first preferred and common stock and dividends at the rate of 5 per cent per annum on its outstanding second preferred stock.

As of September 30, 1921, applicant reports its funded debt at $72,626,000. This debt consists of $65,626,000 of bonds and $7,000,000 of debentures. Applicant has also guaranteed the payment of $871,000 of Shaver Lake Lumber Company bonds. Its current liabilities are reported at $6,771,588.26, of which $3,341,875.22 is represented by notes payable.

A. N. Kemp, a vice president of the Southern California Edison Company, testified that the company's budget for 1922 calls for an expenditure of $19,750,000. Of this amount approximately $16,000,000 will be needed for new construction, $1,000,000 to refund debentures due January 15, 1922, about $2,500,000 to pay Edison Electric Com-

(*)—Proportion of common stock controlled by company through ownership of Pacific Light and Power Corporation stock $10,836,628, leaving net outstanding $23,547,072.

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pany of Wyoming bonds due September 1, 1922, and $250,000 may be needed to pay Shaver Lake Lumber Company bonds. It is for the purpose of enabling applicant to go forward with its construction work and to meet its maturing obligations that it asks permission to issue and sell $7,500,000 of common stock. Applicant has not submitted a detailed statement of its proposed construction expenditures, but has agreed not to disburse any of the proceeds from the sale of stock until such time as the Commission by supplemental order or orders may authorize the disbursement of the proceeds.

I herewith submit the following form of order:

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue and sell 75,000 shares ($7,500,000 par value) of common stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to issue and sell, for cash, at not less than $94 per share 75,000 shares ($7,500,000 par value) of its common capital stock.

The authority herein granted is subject to further conditions, as follows:

1. All of the proceeds obtained from the sale of the stock herein authorized shall be placed and held in applicant's treasury, or in a special fund, and shall be disbursed only for such purposes as the Railroad Commission may authorize in a supplemental order or orders. The proceeds may be consolidated with the proceeds obtained from the sale of stock, the issue of which has heretofore been authorized by the Railroad Commission.

2. Southern California Edison Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before October 15, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of November, 1921.

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DECISION No. 9830.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER INCREASING ITS ELECTRIC RATES IN ITS STOCKTON DIVISION.

Application No. 6886.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER INCREASING ITS GAS AND ELECTRIC RATES IN ITS STOCKTON DIVISION.

Application No. 5942.

(First Supplemental Application.)

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS OF RATES OF THE WESTERN STATES GAS AND ELECTRIC COMPANY FOR SERVICE OF GAS IN THE CITY OF STOCKTON.

Case No. 1664.

Decided December 1, 1921.

EXCESS DAMAGES OVER INSURABLE AMOUNTS.—It is held that allowance is proper in operating expenses either for reasonable insurance to cover public liability or reasonable cost of carrying such insurance, but that allowance for excess damages over insurable amounts can not be granted.

TAXES—HOW COMPUTED—FEDERAL INCOME TAX.—The general method followed by this Commission in estimating taxes is to include taxes, which become a lien on the property during the period in question. The Commission has in a number of instances included federal income tax as a part of the cost of operation and eliminated it from consideration in the determination of the reasonable return allowable to the company.

Chickering and Gregory, by *Allen L. Chickering* and *Evan M. Williams*, and *Nutter, Hancock and Rutherford*, by *W. B. Nutter*, for Western States Gas and Electric Company.

Stanley M. Arndt, for Intervenors.

Stewart and Louttit, and *Stanley M. Arndt*, for National Paper Products Company.

Chas. W. Slack and *Edgar T. Zook*, by *O. K. Patterson*, for Natomas Company of California.

M. P. Shaughnessy, for City of Stockton.

MARTIN, *Commissioner*.

OPINION.

Application No. 6886 is a petition of Western States Gas and Electric Company for an increase of electric rates in its Stockton division. The request is based upon the contention that since the rates now in effect were authorized, applicant's costs of operation have increased on account of increased cost of power purchased and increases in taxes, and, further, that owing to decrease in the amount of business supplied by it applicant's net return will, under present rates, be less than found reasonable by the Commission.

Prior to a hearing being set in this application and at the urgent request the Stockton Chamber of Commerce that the company withdraw its application, Western States Gas and Electric Company,

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through its attorneys, requested, under date of June 25, 1921, that the matter be withdrawn and dismissed without prejudice. On the same day that the petition for withdrawal was received a petition of intervention was filed by W. D. Buckley and others through their attorney, Stanley M. Arndt. This petition denied in general the allegations set forth in the company's application and presented a counter application requesting that the Commission deny the application of Western States Gas and Electric Company and make an investigation and determination of the electric rates and order such decreased rates as seem just, and that the rates for gas service be investigated and reduced rates be established. Request was made that pending such decision Western States Gas and Electric Company be required to hold the sum of six cents per thousand cubic feet for all gas supplied based on meter readings taken on and after July 1, 1921, subject to the order of the Commission. In view of the petition for intervention and its later amendment, Application No. 6886 of Western States Gas and Electric Company was not dismissed but set for hearing.

First Supplemental Application No. 5942 is a petition of Western States Gas and Electric Company for authority to reduce its gas rates by five cents per thousand and for the determination of a basis of variation in the cost of gas by which its rates might be automatically modified with change in price of oil without the necessity for formal hearings. This request for reduction in rates was based upon general reduction in the cost of oil to applicant.

Case No. 1664 was instituted by the Commission on its own motion into the reasonableness of the gas rates of Western States Gas and Electric Company in its Stockton division in view of the reduction in the price of oil and the position taken by Western States Gas and Electric Company relative to the intervention and cross-complaint filed.

Application No. 6886 and Case No. 1664 were set for hearing at Stockton on September 6, and at the hearing attorneys for Western States Gas and Electric Company agreed that First Supplemental Application No. 5942 might be considered in connection with the other proceedings.

Hearings were held at Stockton on September 6 and 7 and at San Francisco on September 13, at which time evidence was introduced by Western States Gas and Electric Company in support of its petition and by the Commission's engineers and certain exhibits were filed by the intervenors. At the hearing Western States Gas and Electric Company again offered to withdraw its petition as urged by the Stockton Chamber of Commerce contingent upon the dismissal of the entire proceeding including the counter proceeding in intervention. This proposal was not accepted by the intervenors.

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The three proceedings were consolidated for hearing by the Commission and by agreement of counsel for parties the various proceedings were deemed as submitted on September 13 for the purpose of an emergency and preliminary order by the Commission, with the understanding that any exhibits or reports submitted by the Commission's engineers on a check of the exhibits submitted by the company be filed with the various parties and the parties have the right to ask for further hearing or submit statements or briefs relative to such additional evidence.

Report upon the electric operations was submitted by Assistant Chief Engineer L. S. Ready to the various parties under date of October 14 and the proceeding is now submitted in so far as it refers to preliminary or emergency order and the matters are ready for decision.

The present gas rates in effect in the Stockton division of the Western States Gas and Electric Company were established by this Commission's Decision No. 8459 in Application No. 5942, dated December 20, 1920. In this decision the rates were based upon a price of oil of $2.30 per barrel f. o. b. Stockton. Taxes were estimated at the then existing rate of taxation, and it was found by the Commission that the company was entitled to a return of $168,000 per annum for interest and depreciation on the basis of the year ending June 30, 1921. Since the time of the decision there have occurred two reductions in the price of oil, totaling for Western States Gas and Electric Company 60 cents per barrel, making the present price $1.70 per barrel. There has been additional capital invested in the property and the rate of taxation has been increased. In view of these facts Western States Gas and Electric Company applied for authorization for a reduction of five cents per thousand cubic feet and the placing in effect of an automatic rate which would vary with the price of oil.

Western States Gas and Electric Company's estimate of operating revenues and expenses for the year ending June 30, 1922, with a reduction in rates of five cents per thousand cubic feet below the present rates show an estimated net return for interest and depreciation for that period of $181,923. Exhibits were introduced by the Commission's Assistant Chief Engineer L. S. Ready setting forth a revised estimate of the operating revenues and expenses for the same period, showing a net revenue if existing rates were continued in effect of $221,200, based upon existing price of oil and other conditions, and, if the rate of return heretofore found reasonable should be continued and a reasonable return allowed on additions and betterments installed during the period, that a possible reduction of 8.05 cents per thousand cubic feet could be made at the present time. A comparison of the estimates

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submitted by Mr. Kahn, general manager of the Western States Gas and Electric Company, and Mr. Ready is set forth in Table No. I:

TABLE No. I.

Western States Gas and Electric Company, Stockton—Gas.

Comparison of Actual and Estimated Revenue and Expenses.

	Actual—year ending June 30, 1920	Actual—year ending June 30, 1921	Company estimate year ending June 30, 1922	L. S. Ready estimate year ending June 30, 1922
Gas output—M cubic feet—				
Natural	183,700	179,597	174,208	175,000
Artificial	239,300	294,226	336,655	332,000
Totals	423,000	473,823	510,863	507,000
Gas sales—M cubic feet	371,658	411,529	444,451	444,450
Oil—barrels	49,474	58,894	67,385	67,200
Gas revenue (gas sales)	$400,311 60	$480,425 00	*$523,652 00	†$545,000 00
Operating expenses—				
Production:				
Oil	$89,312 00	$124,044 00	$116,538 00	$114,200 00
Other	54,953 00	58,137 00	67,676 00	64,000 00
Distribution	24,018 00	30,214 00	35,655 00	32,700 00
Commercial	11,882 00	13,448 00	15,434 00	14,500 00
General and miscellaneous	32,785 00	42,983 00	51,561 00	45,000 00
Taxes	29,340 00	38,828 00	52,758 00	48,900 00
Insurance	3,537 00	4,158 00	4,707 00	4,500 00
Total expense	$245,827 00	$311,812 00	$344,129 00	$323,800 00
Net for depreciation and return	$154,484 00	$168,613 00	$179,523 00	$221,200 00
Reasonable return based on Commission estimate in Decision 8459		$168,000 00		$188,000 00
Excess				$33,200 00
Average reduction possible—cents per M cubic feet				7.48 cents
Modified by miscellaneous revenue of $2,500—cents per M cubic feet				8.05 cents
Oil price variable—cents per M cubic feet per 10 cents change in oil price		1.49 cents		1.49 cents

*Present rates reduced 5 cents.
†Present rates continued.

The main difference between the two estimates is that under the item of "revenue" Mr. Kahn has estimated revenue at a rate of five cents per thousand cubic feet below the present rate, while that submitted by Mr. Ready is at the present rate. Operating expenses submitted by Mr. Ready have been estimated somewhat lower than those submitted by the company based upon a comparison of the increase in previous operating expenses and also upon the basis that with the reducing price of commodities the operating expenses should not increase at a greater rate than the increase in business. In a preliminary order such as this and in the absence of very complete showing, the estimate of operating expenses for a given year should not be increased to a greater extent than increase in business.

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The question is raised regarding whether there should be included the item of miscellaneous revenue, covering primarily nonoperative revenue, in determining the rate of return which the company receives. The rate determinations for gas service of the Western States Gas and Electric Company have been based in the past upon a comparative rate of return with the pre-war period and it appears that in determining this rate of return the item of miscellaneous revenue was included, as has also been included certain operating expenses pertaining thereto. Under such circumstances I believe that it is reasonable to accept Mr. Ready's estimate of operating expenses and revenue for the purpose of this proceeding. Intervenors urge a lesser return for both interest and depreciation than estimated by Mr. Ready. From a careful study of their reasons and the evidence I find no justification for changing that amount.

The rates for gas service of the Western States Gas and Electric Company are at the present time practically equal to the rates charged in similar communities where straight artificial gas is served. The rates in these communities have been fixed based on an oil price of $1.72 per barrel. With the reduction herein ordered the rates in Stockton, based on $1.70 per barrel for oil, will be approximately eight cents per 1000 cubic feet or 7 per cent lower than are charged in similar cities where artificial gas alone is served. It may be reasonable to assume that under conditions of artificial gas service a rate averaging 7 per cent higher than herein fixed would be necessary.

Western States Gas and Electric Company supplies about 60 per cent artificial gas and 40 per cent natural gas in its Stockton division. Analysis of the operations shows that a change of 10 cents per barrel in the price of oil results in a change of approximately 1½ cents per thousand cubic feet in the cost of gas supplied to consumers. Western States Gas and Electric Company asks that a rate be fixed which will vary automatically with the change in the price of oil. Such a type of rate or differential has been made effective on other systems and has resulted in the maintenance of reasonable rates under fluctuating oil prices. The order herein will include such a modification. I find that the gas rates should be reduced eight cents per thousand cubic feet and that an automatic variation of 1½ cents per thousand cubic feet for each 10 cents change in the price of oil should be made effective.

The present rates for electric service in the Stockton division of the Western States Gas and Electric Company were fixed by this Commission's Decision No. 8459 in Application No. 5942, effective December 30, 1920. In the decision fixing the electric rates the Commission based

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the return upon an estimated average rate base for the year ending June 30, 1921, of $4,541,000, and found that the company was entitled to a net of $476,805 for depreciation and return based upon that year's operations. Applicant has introduced herewith estimates of the operative capital, operating revenue and expense for the year ending December 31, 1921, claiming as a rate base for that year the sum of $5,072,950.97, this including increases in capital due to additions and betterments and increase in working cash capital and materials and supplies. Applicant has estimated that its net earnings would be $429,683 for depreciation and return for the same period, or an average return of 8.47 per cent, including depreciation, or approximately 6.22 per cent exclusive of that item. Applicant's estimate is based upon the operations for the calendar year 1921 and not upon conditions as they are at the present time or may occur in the future and it is apparent from the evidence herein that the operating costs during the first half of the year were in general greater than may be expected to occur in the future. It, therefore, appears that the estimate as set up is not a correct measure of what future rates should be.

In accordance with the understanding between the parties, an investigation and check of the company's estimate was made by Assistant Chief Engineer L. S. Ready for the Commission and a report submitted as heretofore stated. In this report Mr. Ready made an estimate of the probable rate base, operating revenues and expenses for a 12 months' period, using the property and business for the year 1921, but taking conditions as they exist at the present time in determining the reasonableness of existing rates. This estimate indicated that on the basis of present rates and present conditions the net earnings for the period of 12 months would be approximately $506,873. The estimate made by Mr. Ready has been the subject for the filing of briefs by Western States Gas and Electric Company and intervenors.

Table No. 11 sets forth the actual revenues and expenses for the year ending August 31, 1921, the company's estimate for the year 1921 and Mr. Ready's estimate for the 1921 basis:

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TABLE No. II.

Revenue, Operating Expenses and Return Electric Department—Stockton Division Western States Gas and Electric Company.

1921 Basis.

	Actual twelve months ending Aug. 31, 1921	Company's estimate, 1921	L. S. Ready estimate, 1921 basis
Rate base		$5,072,951 00	$4,700,000 00
Gross revenue	$1,357,443 59	$1,414,229 60	$1,430,000 00
Operating expense—			
Production:			
Hydro	$53,970 46	$62,560 60	$60,720 00
Steam	53,791 43	59,218 00	54,893 00
Purchased power	394,307 04	418,402 00	395,976 00
Credit energy to other departments	*15,110 94	*15,960 00	*15,960 00
Totals	$486,957 99	$524,220 00	$495,629 00
Transmission	44,958 32	49,735 00	49,735 00
Distribution	84,984 63	82,727 06	82,727 00
Commercial	32,785 78	35,155 00	35,155 00
General and miscellaneous	120,548 99	128,531 00	115,000 00
Taxes	118,092 87	135,147 00	125,850 00
Insurance	19,287 45	19,031 00	19,031 00
Total expense	$907,616 03	$984,546 00	$923,127 00
Net return for interest and depreciation	$449,827 56	$429,683 00	$506,873 00
Rate of return for depreciation and return on rate base estimated		8.45%	10.76%

*Deduct.

Western States Gas and Electric Company in its brief pointed out that in determining a relative rate base for the period in question Mr. Ready had excluded certain property which is operative. To the extent that this is so, such item should be increased. It appears that Mr. Ready excluded certain hydro-electric properties amounting to $125,426.42 which may be considered operative, also that his estimate of additions and betterments should be increased $5,000. It would appear that for this decision the comparative rate base should be increased to $4,825,000.

Applicant urges that in estimating gross revenue there should be excluded from Mr. Ready's estimate the miscellaneous nonoperating revenue, which it estimates at a net of $5,310. Although in complete investigations of rates, where all corrections for expense in connection with miscellaneous nonoperating revenues are deducted, this item has generally been excluded, it appears that in the past in electric rate proceedings of this company the item of miscellaneous nonoperating revenue has been included in determining the reasonableness of the electric rates and the comparative rate of return allowed and it would appear consistent to follow the same procedure herein. I find from a consideration of the evidence that a reasonable estimate of gross revenue on the 1921 basis is $1,425,000. It appears that the basis of estimating the cost of energy on the present rates effective in determining

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the reasonableness of the present rates as used by Mr. Ready is sound. However, as suggested in Mr. Ready's report, an additional allowance should be made for the cost of purchased energy to cover the increase due to correction in method of billing by the Pacific Gas and Electric Company. A recomputation of the rates for delivery of service at Natomas and Stockton shows that an increase should be made of $7,250 to cover this item, bringing the total estimated cost of purchased power to $403,226.

Considerable difference exists between the company's and Mr. Ready's estimate of general and miscellaneous expense, one item being the amortization of the cost of damage suit amounting to $12,000 per year, covering one-third of the cost to the company of the damages and expenses therewith of a suit covering an accident which occurred about 1910, judgment on which was rendered in 1920. Mr. Ready has allowed approximately $5,000 to cover a normal allowance for injuries and damages, while the company's estimate included $12,000 for this item alone.

From a study of public utility commission decisions and court decisions it appears that in general allowance is made in operating expenses for either the reasonable insurance to cover public liability or reasonable cost of carrying such insurance, and that allowance for excess damages over insurable amounts should not be made. The amount in question is in excess of insurance carried. Applicant at this time is carrying public liability insurance and I must recommend that even the amount included by Mr. Ready be eliminated.

Applicant has estimated a very material increase in general expense between 1920 and 1921, the increase in percentage being far in excess of either the percentage increase in business or revenue. It is possible that applicant's general expense was below a reasonable amount in 1920. However, in an emergency proceeding such as this it does not appear that a materially greater general expense should be allowed without a full and careful presentation of the entire matter justifying such greater expense. This is especially true when it is considered that the peak of prices has passed and the tendency should be to a lesser rather than a greater expense. There is also the question of the reasonableness of the H. M. Byllesby charge of 2½ per cent of the gross revenue for general supervision.

Evidence does indicate certain increases in general expense which have occurred due to enlarged offices and extended service which would justify somewhat greater increase than that estimated by Mr. Ready. I find an allowance of $115,000 to be a proper amount to be included in determining in this proceeding the reasonableness of rates.

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Western States Gas and Electric Company has included in the item of taxes, state taxes on the estimated 1921 gross revenue, also federal income tax, certain nonoperative tax, capital stock tax and taxes paid on tax-free securities. The general method followed by this Commission in estimating taxes is to include taxes which become a lien on the property during the period in question. In this instance, however, the year 1921 has been used as a period for measuring the reasonableness of present rates. The determination of rates, however, at this time is to cover rates for the future. Since the rates were increased at the first of 1921 by approximately 10 per cent and any action herein will cover rates for the future, it follows that the method used by Mr. Ready, in which the tax was estimated upon the business for 1920 at existing rates, is sound. A recheck of this estimate, however, shows that this estimate is slightly below the amount which would be determined by this method. The state income tax should be increased to $100,000. Intervenors object to the including of federal income tax. The Commission has in a number of instances included federal income tax as a part of the cost of operation and eliminated it from consideration in the determination of the reasonable return allowable to the company. For the purpose of this proceeding it is deemed proper to follow the same practice and consider the points raised by protestants in the main proceeding. I find a fair allowance for taxes in this proceeding to be $127,350.

The following table sets forth the estimated rate base, revenue and expense on the basis of the year 1921 found to be reasonable from the evidence herein. On this basis the company's rates would give a net return of 10.2 per cent for interest and depreciation. In Decision No. 8459 it was considered that a return of 10.5 per cent for interest and depreciation should be considered reasonable. On this basis the total net return should be $506,625, or $13,502 more than the above estimate. This is approximately 1 per cent of the gross revenue. In view of the above and the fact that Western States Gas and Electric Company twice requested that the application be dismissed I must conclude that no emergency exists justifying any increase in electric rates at this time.

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TABLE No. III.

Revenue, Operating Expense and Return, Electric Department—Stockton Division Western States Gas and Electric Company.

1921 Basis.	
Rate base	$4,825,000 00
Gross revenue	$1,425,000 00
Operating expense:	
Production—Hydro	$60,720 00
Steam	54,893 00
Purchased power	403,226 00
Credit energy to other departments	*15,960 00
Total	$502,879 00
Transmission	49,735 00
Distribution	82,727 00
Commercial	35,155 00
General and miscellaneous	115,000 00
Taxes	127,350 00
Insurance	19,031 00
Total expense	$931,877 00
Net return for interest and depreciation	$493,123 00
Rate of return for depreciation and return on rate base estimated	10.2%
Return at 10.5 per cent previously allowed	$506,625 00
	$13,502 00

I recommend the following form of order:

ORDER.

Western States Gas and Electric Company having applied, in Application No. 6886, for an increase in electric rates, a petition of intervention by Mr. W. D. Buckley et al. having been filed therein requesting a reduction in gas and electric rates, Western States Gas and Electric Company having applied for authority to reduce its gas rates five cents per thousand cubic feet and for the fixing of a variable gas rate, First Supplemental Application No. 5942, and the Commission having instituted a proceeding on its own motion, Case No. 1664, for the determination of reasonable gas rates of Western States Gas and Electric Company, hearings having been held and the proceedings submitted in so far as they refer to immediate or emergency modification of rates and now ready for decision;

The Railroad Commission hereby finds as a fact that no emergency exists justifying an increase or decrease in electric rates at this time on Western States Gas and Electric Company's system in its Stockton division, and also finds as a fact that the rates for gas service by Western States Gas and Electric Company in its Stockton division should, under present conditions, be reduced by eight cents per thousand cubic feet below the present rates.

*Deduct.

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Basing its order on the foregoing findings of fact and the other findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that petition of Western States Gas and Electric Company for an increase in electric rates, Application No. 6886, in so far as it refers to emergency action, is hereby denied.

It is hereby further ordered:

1. That Western States Gas and Electric Company reduce its present rates per thousand cubic feet for gas service in its Stockton division by the amount of eight cents per thousand cubic feet, effective for all meter readings taken on and after December 30, 1921, and that said rates shall be further modified to include the following clause:

> The above rates are subject to increase or decrease on the basis of 1½ cents per thousand cubic feet for each 10 cents increase or decrease, respectively, in the cost of oil above or below the price of $1.70 per barrel at Stockton upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

2. In case of a reduction in the price of oil Western States Gas and Electric Company shall file within ten (10) days thereafter an affidavit setting forth the new price of oil, and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined herein.

3. Should at any time an increase in the price of oil occur, Western States Gas and Electric Company may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined herein.

4. Western States Gas and Electric Company shall, within ten (10) days of the date of this order, file with the Commission the revised schedules of rates as herein ordered.

5. First Supplemental Application No. 5942 is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of December, 1921.

DECISION NO. 9831.

IN THE MATTER OF THE APPLICATION OF ASSOCIATED TELEPHONE COMPANY, A CORPORATION, FOR LEAVE TO DISCONTINUE THE INSTALLATION OF TELEPHONES FOR PUBLIC USE UPON THE PREMISES OF SUBSCRIBERS AT FLAT MONTHLY RATES AND TO SUBSTITUTE THEREFOR PUBLIC PAY STATIONS AT LOCAL SWITCHING RATES.

Application No. 6983.

Decided December 1, 1921.

W. W. Butler, George B. Ellis, Sam R. Heffley, for Petitioner.

George L. Hoodenpyl, City Attorney, and *C. A. Buffum*, Mayor, for the City of Long Beach.

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William Guthrie, City Attorney, for City of San Bernardino.
R. B. Peters, President, San Bernardino Farm Bureau.
Dwight Towne, representing Towne-Allison Drug Company.
F. W. Phipps, representing San Bernardino Merchants' Association.

BENEDICT, *Commissioner.*

OPINION.

Associated Telephone Company, petitioner in this proceeding, owns and operates local telephone exchanges in the cities of Long Beach and San Bernardino. The rate schedules for service at these exchanges, on file with the Railroad Commission and in effect, provide only for flat monthly rates for unlimited local exchange service.

In this proceeding petitioner is asking authority to discontinue certain of its flat rate telephones and to substitute pay stations with a local switching rate of five cents per switch in lieu thereof.

Public hearings were held in Los Angeles on July 14, and on September 21 and 22, 1921.

The application sets forth that it has been the practice of petitioner heretofore upon application by the owner or occupant of the premises on which service is to be provided to install service at flat rates, the service which it is now desired to withdraw being accessible for public use without other payment to petitioner than the flat rate paid by the subscriber.

It is further alleged that this practice leads to much abuse of the service and that those of the representative business subscribers who were canvassed with a view to eliminating the present practice, almost without exception, expressed themselves as favorable to the change on condition, however, that other subscribers in the same line of business also agree to the proposed change. During the course of the hearings considerable opposition developed, however, from the representatives of both of the cities and from representatives of subscribers of both exchanges.

From the evidence in this case it appears that there are two general classes of cases in which the service is used by the public or is accessible for such use.

The first class consists of cases in which telephones have been placed in business houses or other places of a more or less public or semi-public nature for the convenience of the public generally, but chiefly for the accommodation of the patrons of the establishment in which they are located. In these cases the use of the service is solely by the public, although the service is paid for by the subscriber or person on whose premises and under whose direction the service was installed in the form of a flat monthly rate. Separate telephones are provided in these cases for the use of the subscriber on whose premises the public telephone is located.

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The other class consists of cases in which the service is used by the subscriber or person on whose premises the telephone is located, the telephone being placed in a location where it is accessible for use by the public also. In these cases also the service is paid for by the subscriber in the form of a flat monthly rate.

In both classes of cases no charge is made to the public for the use of the service.

Exhibits filed in the case by petitioner show that as of the dates of the hearings there were 29 telephones of the first class mentioned above and 279 of the second class, installed and in use in Long Beach and in San Bernardino, eight of the first and 194 of the second class. The total number of telephones of all classes in service in the Long Beach and San Bernardino exchanges is approximately 11,000 and 2,000, respectively.

The percentages to total telephones in service of telephones accessible for public use are thus shown to be as follows:

Long Beach:
Telephones used by public only.
Per cent of total telephones used in Long Beach---------- 0.26
Telephones used by subscriber and public.
Per cent of total telephones in Long Beach---------- 2.54
Total telephones of both classes.
Per cent of total telephones in Long Beach---------- 2.8

San Bernardino:
Telephones used by public only.
Per cent total telephones in San Bernardino---------- 0.4
Telephones used by subscriber and public.
Per cent of total telephones in San Bernardino---------- 9.7
Total telephones of both classes.
Per cent of total telephones in San Bernardino----------10.1

Long Beach and San Bernardino combined:
Telephones used by public only.
Per cent of total telephones in Long Beach and San Bernardino-------- 0.28
Telephones used by subscriber and public.
Per cent of total telephones in Long Beach and San Bernardino------ 3.64
Total telephones of both classes.
Per cent of total telephones in Long Beach and San Bernardino-------- 3.92

At the first hearing of the case, held on July 14, petitioner filed as Exhibit No. 1 a statement of traffic for the month of June at Long Beach. From this statement it appears that the average number of calls answered per day from the total of all classes of telephones in service was 6.8, while the average from the flat-rate telephones used by the public was 130. It was disclosed by the testimony of witnesses, however, that the record of calls from public telephones was taken from only 11 of such stations, these stations being used by the public only, and those selected for the record of calls placed were the most frequently used of all the telephones accessible for public use in Long Beach.

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No record was presented in this hearing to show the extent to which such telephones in San Bernardino are used. Petitioner was accordingly directed by the Commission to record subsequent service observations covering a broader and more representative showing of the average use of such telephones. These observations were taken by petitioner and filed at the hearing on September 21 as petitioner's exhibits No. 2 for San Bernardino and No. 3 for Long Beach.

The observations in Long Beach were taken over two periods of four days each from 21 of the 28 telephones used by the public only, including nine of the 11 previously observed, and over a period of eight days from 47 of the total of 279 telephones used by subscribers and the public.

In San Bernardino the observations cover a period of nine days from all of the eight stations used by the public only, and varying periods of three and four days from 24 of the 194 telephones used by subscribers and the public.

Similar observations were also recorded from a limited number of telephones not accessible to public use in Long Beach and San Bernardino.

The result of these various observations recorded by petitioner shows the average use of the service, expressed in number of calls per day, as follows:

	Exhibit No. 1 Long Beach		Exhibit No. 3 Long Beach		Exhibit No. 2 San Bernardino	
	Number observations	Average calls per day	Number observations	Average calls per day	Number observations	Average calls per day
Used by public only	11	130	42	78.1	16	34.8
Used by subscriber and public			47	33.1	25	17.2
Not accessible for public use			36	15.5	9	8.5

Service observations by the city of San Bernardino have also been recorded and filed as protestants' exhibits No. 1 and No. 4.

Protestants' Exhibit No. 1 shows a total of 47 observations recorded from 29 telephones used by the subscriber and the public with an average of 8.5 calls per day from these telephones. Of these average daily calls 7.4 were calls used by the subscriber and 1.1 by the public. Protestants' Exhibit No. 4 shows four observations from three of the eight telephones in San Bernardino used by the public only, with an average of 13 calls per day. Similar observations by protestants in Long Beach were not presented.

It appears from the exhibits filed by petitioner that although the average daily use of telephones which are accessible for public use is

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approximately from 100 to 200 per cent greater than the use of telephones which are not accessible for public use, the percentage of the former to the total telephones in service, particularly in Long Beach, is so low as to be of no particular consequence in so far as the effect on the total volume of traffic is concerned.

In San Bernardino the same comparative use of telephones accessible for public use is shown by petitioner's exhibits, and the percentage of these telephones to the total telephones in service is considerably greater than in Long Beach. The exhibits filed by the city, however, show that the average use of telephones which are used by the subscriber and by the public in San Bernardino is approximately the same that the petitioner's exhibit shows for telephones used by subscribers only, and of the telephones used by the public only, the observations recorded by the city show the use to be but 38 per cent approximately of that shown by petitioner's exhibit.

It is urged by petitioner that much of the use to which these telephones is put by the nonpaying public is trivial in character, and that it results in an unwarranted burden on the traffic during the hours of peak traffic load, reflecting an undesirable and detrimental effect on the general service.

It is further claimed by petitioner that it will entail the installation of additional central office equipment and the employment of additional operators if continued. Protestants urge, on the other hand, that the service is not used for trivial purposes; that its use is largely by persons having telephones at other locations within the exchange and that so far as those telephones that are provided solely for the use of the public are concerned, not only are they an asset to the business paying for the service which is thus afforded the public, but they also serve to avoid the public use of telephones required for private business purposes.

With the relatively low percentage of total telephones of these two classes now in use, even though the amount of traffic originating from them undoubtedly is very considerably heavier than the average traffic originating from other subscribers' stations, petitioner's contention that their continued use will entail additional capital outlay and operating expenses does not appear to be tenable.

It is true that if petitioner were allowed by the Commission to substitute pay stations for telephones now used by the public only and paid for only by the subscriber that the public use of telephones required for the private business of subscribers could be avoided as effectively perhaps as by the present practice.

It is also true that petitioner should not be required to provide service for the public without adequate payment therefor, but the ques-

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tion as to whether the rates now paid by petitioner's subscribers for service furnished the public are adequate rates goes to the reasonableness of the present rates. That question is not at issue in this proceeding. On the other hand, as to those cases in which subscribers permit the public use of telephones which are used also for their private business, it would not be an easy matter effectively to prohibit or regulate such joint use, and if petitioner were permitted by the Commission to require these subscribers to make use of pay stations for their own service whenever it might appear that the service would be accessible for public use, such permission would be susceptible of abuse and discrimination.

It is my opinion that the substitution of pay stations for flat rate service in this case would prove more harmful than beneficial both to petitioner and to subscribers, and that under the circumstances the application should be denied. The following order is recommended:

ORDER.

Associated Telephone Company having filed its application with the Railroad Commission asking leave to withdraw certain service now provided on subscribers' premises at flat monthly rates for public use and to substitute therefor public pay stations, and asking authority to establish a rate of five cents for each local call originating from such public pay stations; public hearings having been held; the Commission being fully apprised, and the matter having been submitted; and it appearing to the Commission as set forth in the opinion preceding this order that the application should be denied;

It is hereby ordered, that the application herein be and it is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of December, 1921.

DECISION NO. 9834.

IN THE MATTER OF THE APPLICATION OF ONTARIO POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF SEVEN PER CENT SECURED NOTES AND SEVEN PER CENT PREFERRED STOCK.

Application No. 7271.

Decided December 3, 1921.

Glenn D. Smith, for Applicant.

BY THE COMMISSION.

OPINION.

Ontario Power Company asks permission to issue $44,500 face value of 7 per cent serial secured notes and $20,000 par value of 7 per cent

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preferred stock and use the proceeds to pay the cost of constructing a new hydro-electric generating plant and the installation of additions and betterments. It intends to sell the notes at 99 per cent of their face value and accrued interest and the stock at par.

A hearing was had on this application before Examiner Williams on December 1 at Los Angeles.

Ontario Power Company has an authorized stock issue of $1,500,000, divided into $900,000 of common and $600,000 of 7 per cent preferred. As of September 30, 1921, applicant reports $380,000 of common and $188,720 of preferred stock outstanding. As of the same date, applicant reports outstanding $280,000 of 5 per cent bonds due in 1932; $72,000 of 7 per cent unsecured serial notes and $15,500 of 7 per cent secured serial notes. Applicant's current liabilities on September 30 were less than its current assets.

In its annual reports filed with the Railroad Commission for the three years ending December 31, 1920, applicant shows its income and expenditures as follows:

	1918	1919	1920
Operating revenues	$132,186 10	$159,360 52	$204,277 04
Operating expenses	79,049 14	112,942 06	124,599 54
Net operating revenues	$53,136 96	$46,418 46	$79,677 50
Nonoperating revenues	1,127 26	1,271 01	1,726 61
Gross corporate income	$54,264 22	$47,689 47	$81,404 11
Deductions—			
Uncollectible bills	$478 07	$18 06	$281 40
Interest on funded debt	14,596 20	15,978 31	19,670 00
Miscellaneous	215 23	233 34	633 51
Total deductions	$15,289 50	$16,229 74	$20,584 91
Available for dividends, etc.	$38,974 72	$31,459 73	$60,819 20

Glenn D. Smith, applicant's general manager, testified that applicant's net earnings for 1921 will be in excess of those for 1920.

The Railroad Commission by Decision No. 9274, dated July 27, 1921, in Application No. 7024, authorized applicant to execute a deed of trust to secure an issue of $60,000 of 7 per cent serial notes payable in equal annual installments of $4,000 per annum from October 1 of each of the years 1922 to 1936, inclusive. The Commission by Decision No. 9274 also authorized applicant to issue $15,500 of the notes to acquire "Lot 5, block 4, and lots 1, 2 and 18, block 20, San Antonio Heights Tract; the steel pipe line from the north part of lot 8, block 36, to the south line of lot 1, block 20, San Antonio Heights Tract, and the power rights formerly owned by Pacific Electric Company."

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Applicant now intends to issue the remaining $44,500 of 7 per cent secured notes for the purpose of building a hydro-electric generating station on lot 5, block 4, of San Antonio Heights Tract. The cost of the power plant and appurtenances is estimated at $44,279. The generating station, applicant reports, "will be 25x30 feet, one story, concrete construction, with concrete roof, and the equipment will be a 500-horsepower Pelton impulse water wheel, with direct-connected 400-kilovolt ampere generator and exciter. The generating station will be a combination of remote and automatic control." Applicant's general manager estimated the annual output of the proposed station at 2,250,000 kilowatt hours. He reports that the output of applicant's plants is at present inadequate to meet the demands of its consumers and that it is necessary for applicant to purchase approximately 5,000,000 kilowatt hours of electrical energy from the Southern California Edison Company. He further reports that the cost of producing electrical energy by the new plant will be substantially less than the cost of purchasing energy from the Edison Company.

Applicant reports in its Exhibit "A" that during June, July, August and September, 1921, it expended for extensions, additions and betterments $23,161.75. On account of these expenditures, it asks permission to use some of the proceeds obtained from the sale of its preferred stock and notes to reimburse its treasury.

The records of the Commission show that applicant under date of August 1, 1921, paid a fee on the $60,000 of 7 per cent serial notes, which may be issued under the deed of trust, which the Commission by Decision No. 9274 authorized applicant to execute. No additional fee need therefore be paid on the notes herein authorized to be issued.

ORDER.

Ontario Power Company having applied to the Railroad Commission for permission to issue $44,500 face value of notes and $20,000 par value of preferred stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Ontario Power Company be and it is hereby authorized to issue $44,500 face value of its 7 per cent serial secured notes and $20,000 par value of its 7 per cent preferred stock.

The authority herein granted is subject to the following conditions:

1. The notes herein authorized to be issued shall be sold by applicant, for cash, at not less than 99 per cent of their face value and accrued interest and the stock herein authorized to be issued shall be

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sold by applicant, for cash, at not less than its par value. Approximately $44,279 of the proceeds realized from the sale of the notes and stock herein authorized to be issued may be used by applicant to pay the cost of constructing the hydro-electric plant described in this application. The proceeds not used for the purpose of constructing said hydro-electric plant may be used by applicant to reimburse its treasury in whole or in part on account of earnings expended to pay the cost of extensions, additions and betterments installed during June, July, August and September, 1921, and described in Exhibit "A," attached hereto.

2. Ontario Power Company shall keep such record of the issue and sale of the notes and stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such notes and stock as may be issued, sold and delivered on or before March 1, 1922.

Dated at San Francisco, California, this third day of December, 1921.

DECISION NO. 9836.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF CONTRA COSTA GAS COMPANY, ON THE COMMISSION'S OWN MOTION.

Case No. 1653.

Decided December 3, 1921.

BY THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

Contra Costa Gas Company has filed, under date of November 17, 1921, a petition for rehearing in connection with Decision No. 9725 in the above entitled matter.

Petitioner for rehearing alleges in effect that the rates fixed in the Commission's Decision No. 9725 are unreasonably low and confiscatory; that at no time since its inception has the company earned a fair and adequate return upon its investment; that only since the recent reduction in the price of oil would it have an opportunity of obtaining such a return provided the existing rates remain effective; that the reduced rates as ordered in Decision No. 9725 would deprive the company of the opportunity of earning a reasonable return and compel it to render service to the public at a rate less than fair and less than the service furnished is reasonably worth.

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Petitioner contends in general that there are three factors to be considered in connection herewith: *First,* the value of the property of the Contra Costa Gas Company used and useful in serving the public; *second,* the rate of return which it should be permitted to earn over and above operating expenses; *third,* the reasonableness of the rates charged by the company for service to its consumers.

Applicant introduced a statement of investment totaling approximately $8,600 in excess of the total figure of $362,500 allowed by the Commission. In this figure applicant has included in working cash capital an amount based upon operating expenses, including taxes and fuel oil, the first of which has not been found to be reasonably included in determining working cash capital, and the second was considered and allowance made under the item of materials and supplies. It does not appear that this contention regarding a higher investment figure is reasonable.

Certain reductions were made in the operating expenses below the estimate submitted by the company, mainly in the items of production repairs, distribution and commercial expense. A reanalysis of the evidence shows that the production repairs estimated by petitioner were based upon abnormal conditions of repairs and that as to future conditions this item should be reduced, especially in view of the tendency to reduced output of gas. Distribution expense estimates as made in the Commission's decision appear reasonable at this time as well as when applied to future conditions, especially when it is considered that distribution and operating expenses have been abnormally high. We do not find that there should be any modification in the Commission's former estimates of operating expense.

Relative to the rate of return which applicant contends is below what is reasonable, it appears from the evidence as presented in the original case that there has been a reduction in the use of gas by consumers, although only a small reduction in the number of consumers, owing to the economic depression existing in the territory served. Applicant has not received a full return upon its investment in the past due to various causes, an important one being the quality of service rendered, which has caused considerable complaint and delayed increasing rates when they would otherwise be justified. The value of service does not appear to be worth more than the rates heretofore fixed in Decision No. 9725. Without a building up of better service quality and public relations the company can not expect a greater return, but with a continued good service condition an increase in return should occur under existing rates.

We find no good reason for granting a rehearing in this matter.

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ORDER.

Contra Costa Gas Company having filed a petition for rehearing in the above entitled matter and the Commission finding that no good reason exists justifying a rehearing;

It is hereby ordered, that the petition of Contra Costa Gas Company for rehearing is hereby denied.

Dated at San Francisco, California, this third day of December, 1921.

DECISION NO. 9838.

THE MUNICIPAL LEAGUE

vs.

SOUTHERN PACIFIC COMPANY; THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, AND SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY.

Case No. 970.

CENTRAL DEVELOPMENT ASSOCIATION OF LOS ANGELES

vs.

SOUTHERN PACIFIC COMPANY; THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, AND SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY.

Case No. 971.

CIVIC CENTER ASSOCIATION OF LOS ANGELES

vs.

SOUTHERN PACIFIC COMPANY; THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, AND SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY.

Case No. 972.

CITY OF PASADENA, A MUNICIPAL CORPORATION,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY; SOUTHERN PACIFIC COMPANY; ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY; SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, AND CITY OF LOS ANGELES.

Case No. 974.

CITY OF ALHAMBRA, A MUNICIPAL CORPORATION,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY; SOUTHERN PACIFIC COMPANY; ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY; SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, AND CITY OF LOS ANGELES.

Case No. 980.

CITY OF SAN GABRIEL, A MUNICIPAL CORPORATION,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY; SOUTHERN PACIFIC COMPANY; ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY; SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, AND CITY OF LOS ANGELES.

Case No. 981.

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CITY OF SOUTH PASADENA, A MUNICIPAL CORPORATION,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY; SOUTHERN PACIFIC COMPANY; ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY; SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, AND CITY OF LOS ANGELES.

Case No. 983.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC RAILROAD COMPANY, SOUTHERN PACIFIC COMPANY AND LOS ANGELES AND SALT LAKE RAILROAD COMPANY FOR APPROVAL OF AGREEMENT FOR JOINT TERMINAL FACILITIES IN LOS ANGELES, CALIFORNIA.

Application No. 3346.

Decided December 6, 1921.

JURISDICTION.—It is held that the Commission has full jurisdiction to require the construction of a union depot, and that the order does not amount to the taking of private property for public use without just compensation, nor does it take private property without due process of law.

GRADE CROSSINGS—ELIMINATION OF.—The decision and order in this proceeding are based upon the facts that the safety, convenience and necessity of the general traveling public, employees of carriers and the people of Los Angeles require the elimination of grade crossings and the construction of a union passenger depot.

Gibbon and Shelton, for Municipal League of the City of Los Angeles, Central Development Association of Los Angeles and Civic Center Association of Los Angeles.
Marshall Stimson, for Central Development Association of Los Angeles and Municipal League of Los Angeles.
Seward A. Simons, for Central Development Association of Los Angeles.
Joseph Scott and *Edward D. Layman*, for Los Angeles Chamber of Commerce.
John Munger and *J. H. Howard*, for City of Pasadena.
Albert Lee Stephens, Howard A. Robertson, Chas. S. Burnell, Jess E. Stephens and *H. Z. Osborne, Jr.*, for City of Los Angeles.
T. D. McFadden, for City of San Gabriel.
William Hazlett, City Attorney, for City of South Pasadena.
A. S. Halsted, for Los Angeles and Salt Lake Railroad Company.
C. W. Durbrow and *George D. Squires*, for Southern Pacific Company.
E. W. Camp and *C. T. Clotfelter*, for The Atchison, Topeka and Santa Fe Railway Company.
Frank Karr and *E. E. Morris*, for Pacific Electric Railway.
R. A. Rowan, for Los Angeles Realty Board.
Fred P. Gregson, for Associated Jobbers of Los Angeles.
F. M. Hilton and *G. M. Lorraine*, for City of Alhambra.
Gibson, Dunn and Crutcher, for Los Angeles Railway.
W. H. Workman, Jr., for Los Angeles City and County Viaducts Association.
Will D. Gould, President, for Northwest Improvement Association.
Charles W. Lyon, for City of Santa Monica and City of Venice.
Herbert J. Goudge, for Business Men's Association of Los Angeles.
W. C. Shelton, for Business Men's Cooperative Association.
R. W. Kelly, for Brooklyn Avenue and Malabar Improvement Association.
Leonard B. Slosson, for Municipal League of the City of Los Angeles.
George A. Damon, for City Planning Association.
Gordon G. Dunlop, Chairman of Los Angeles Conference of City Planning.
J. G. Wingert, for City of Whittier.
B. M. Page, for Business Men's Stability Association.

BY THE COMMISSION.

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OPINION.

Decision in the above entitled proceedings, as consolidated at the original hearing, has been heretofore rendered (Decision No. 8901). Upon the filing by all of the defendants of petitions for rehearing, and after hearing and argument thereon, it became apparent that certain modifications of the original findings and order were necessary, and for that purpose a rehearing was granted.

In view of the exhaustive investigation that has been made and the full and complete presentation of evidence by all parties at the former hearings, and the further fact that the Commission has viewed the premises and is thoroughly familiar with the physical conditions, it is not considered necessary to reopen the case for the taking of further evidence. At the request of the Commission, there have been filed by all parties written stipulations that all the evidence and arguments taken at former hearings might be considered as the evidence and record on rehearing.

In the former opinion, the facts relative to grade-crossing elimination and the union passenger depot were thoroughly discussed and the reasons generally upon which the Commission based its findings were set forth. In addition to this it was deemed necessary, inasmuch as the various complainants and the city had asked the Commission to make a comprehensive investigation of the entire railroad situation in Los Angeles, to discuss all aspects of the transportation problem from the standpoint of both immediate and future needs and to include some suggestions relative to future developments, which necessarily could not be included in the order. In view of the fact that the work done and the investigation made in this case may be the basis, in part at least, for supplemental orders that may be necessary to the carrying out of the general scheme of traffic reorganization in Los Angeles asked for by complainants, all that was said in the former opinion is now considered pertinent and of value herein and the same is therefore approved, except as herein modified.

It is only necessary here to consider the questions which were presented in the petitions and arguments for rehearing and in particular those which make a modification of the findings and order necessary.

1. *Pacific Electric.* It is complained that as to the Pacific Electric the order is unlawful in that it requires participation in the construction of a union station and in the separation of grades at Macy and Seventh streets, whereas the evidence shows that the Pacific Electric has no interest in a union station at all and maintains no tracks on the streets mentioned. A careful review of the record leads us to conclude that there was not sufficient evidence upon which to base the findings and order that the Pacific Electric should participate in the

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construction of a union terminal at the plaza. The Pacific Electric will, therefore, be eliminated from that part of the order. As to grade crossings, it was, of course, not contemplated that the Pacific Electric should participate in any construction at crossing where it has no tracks; however, in order that there may be no misunderstanding, the order will be modified in that particular and the Pacific Electric Company will be specifically required to participate in the separation of grade crossings at Aliso street and the Los Angeles River, in accordance with the relief asked in Cases 974, 980, 981 and 983. Inasmuch as the suspension of the original order automatically suspended the dismissal of these four cases and reinstated them, that part of the order dismissing these cases will be omitted from the present order, and the decision and order herein will be the decision and order in said four cases as consolidated in the entire proceeding.

2. *Grade crossing separation.* No special complaint was made in the petitions for rehearing or in the oral arguments thereon concerning that part of the order which required the separation of grade crossings. It was admitted by all parties that the grade crossings are dangerous and that there is abundant evidence to show that public convenience and necessity require the elimination of all the grade crossings mentioned in the order. It was stated by counsel for the Southern Pacific Company, in argument upon rehearing, that "So far as the grade crossing elimination is concerned, we have from the very beginning been frank in stating that it was the desire of carriers to fully cooperate to the fullest extent in eliminating the condition which now exists." By the filing of Application No. 3346 three of the carriers, the Southern Pacific Company, Los Angeles and Salt Lake Railroad Company, and Pacific Electric Company, practically admitted that the only effective method of eliminating the grade crossing evil from Alameda street is to remove all railroad traffic (except freight switching during limited hours) from that street. These carriers propose in this application to do this by making the present Southern Pacific station a partially unified terminal and bringing trains to it by means of a trestle direct from the Los Angeles River. The Commission found, and its finding was supported by abundant evidence, that this plan did not eliminate all the grade crossings, and that it only provided for a partial and unsatisfactory solution of the terminal question. The Commission was, however, also of the opinion that the only method of eliminating grade crossings from Alameda street is to remove all main-line traffic therefrom, but found that this can only be safely, effectively and satisfactorily accomplished by the construction of a depot at the plaza. A review of the record convinces us that this finding is amply

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supported by evidence. The former findings and order as to grade crossings will, therefore, remain substantially unchanged.

3. *Union terminal.* All the constitutional questions and the questions relating to jurisdiction that were urged by the carriers upon rehearing relate to that part of the order requiring the construction of a union depot. Without going into an extended discussion of the questions involved, we may say that we are satisfied that the order does not amount to a taking of private property for public use without just compensation, nor does it take property without due process of law, or deny defendants equal protection of the law. We are also satisfied that the Commission has full jurisdiction of the subject matter of the order and that its authority to make the order has not been taken away or impaired by federal statutes.

It was urged by the carriers that the order requiring a union passenger depot at the plaza is without support in the evidence and that the Commission disregarded the evidence of carriers and relied exclusively upon the report of the Commission's own engineer. The Commission has given this claim careful consideration. Five detailed plans for a union terminal were introduced in evidence by five different witnesses. They were the Hawgood plan, the Barnard plan, the Storrow plan, the Southern Pacific-Salt Lake plan and the Sachse plan. With the exception of the Southern Pacific-Salt Lake plan, all of these plans called for a union passenger depot at the plaza, but differed as to the exact location of the depot and the arrangement of tracks, approaches, etc. In addition to these, the so-called Arnold report was introduced and there was much other evidence, all supporting the general proposition that a union depot at the plaza was necessary. The Commission did not rely solely on the report of its own engineer, nor did it adopt the Sachse plan in all its particulars, but, in accordance with the overwhelming preponderance of the evidence, the Commission did order a union depot at the general site of the plaza, and left the exact location of the depot, tracks, approaches, etc., to be determined by the carriers themselves, subject only to the final approval of the Commission.

That public convenience and necessity require the construction of a union depot at the plaza is supported by abundant evidence. The very first witness who took the stand, Mr. Storrow, began by stating that any comprehensive plan for the entire elimination of grade crossings involved the construction of a new union depot, and that such a plan for grade-crossing elimination was not applicable to any location for a union depot except the plaza. Much testimony was thereafter given, and much argument made to the effect that a complete and satisfactory solution of the grade-crossing situation was dependent upon a

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union depot at the plaza, and the Commission finds this to be the fact. That such a finding is amply supported by the evidence we entertain no doubt.

The evidence was equally clear as to the inadequacy of the present passenger depots of the carriers. The Los Angeles and Salt Lake Railroad Company's depot is admittedly inadequate. Built in 1891, at an estimated cost of $10,000, it is shamefully lacking in every particular necessary to satisfy the requirements of public convenience and necessity of a city of six hundred thousand people. The Santa Fe depot, built in 1893, at an estimated cost of $50,000, now provides scant facilities for the use of passengers, and is also wholly inadequate for present and future needs. As to the Southern Pacific depot, its continued use does not conform to any satisfactory plan for the elimination of the grade crossings on Alameda street. The imperative public necessity for the elimination of these grade crossings is a complete answer to the claim that the order requiring the abandonment of this depot amounts to a taking of property without compensation.

In arguments on rehearing, considerable stress was laid upon the alleged cost of a union passenger station at the plaza. The matter of cost was thoroughly discussed in the former opinion; it only remains to add that a very large expenditure on the part of all the carriers will be immediately necessary, irrespective of what plan the Commission might adopt. Under the Southern Pacific and Salt Lake's own plan, approximately $17,000,000 would have to be expended. The Commission is convinced that the needs of the public will not be met by this plan, but believes, on the contrary, that public convenience and necessity require a complete and satisfactory solution of the grade-crossing and terminal questions, and that, therefore, public convenience and necessity not only justify, but require the added expense necessary to such a solution.

Objection was made by the carriers to that portion of the order which requires the appointment of a representative committee, to which is to be delegated authority to prepare plans. On further consideration, the Commission has determined to modify the order in this regard and the order will be made, directing the carriers themselves to prepare and submit plans and estimates of cost without the interposition of a representative committee.

No special reference was made in the former order to the part the city of Los Angeles should bear in the expense of eliminating the grade crossings along the Los Angeles River. It was, of course, understood by all parties that the city would pay a proportionate share this expense. On further consideration the Commission has determined that the city should be specifically included in the

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order, and required to participate in the filing of the statement showing proportionate cost which each of the defendants and the city is to pay.

Considerable evidence was introduced by various parties concerning architectural beauty, improvement of real estate values, civic pride, and similar matters in connection with a union passenger station at the plaza. The Commission desires to make it plain that no evidence of this character was considered of any importance in determining what the order should be, nor are any of these matters made the basis of the decision in this case. The decision and order herein are based upon the facts that the safety, comfort, convenience and necessity of the general public traveling across the grade crossings of the defendant carriers, also of the passengers and employees on the trains of said carriers, and also of the public utilizing passenger facilities in the city of Los Angeles, require the elimination of grade crossings and the construction of a union passenger depot, as directed in the following order.

FINDINGS AND ORDER.

Complaints having been filed by the Municipal League, Central Development Association, Civic Center Association, and the cities of Pasadena, Alhambra, San Gabriel and South Pasadena, and an application filed by the Southern Pacific Company and the Los Angeles and Salt Lake Railroad Company, and all of these complaints and said application having been consolidated in this proceeding, and an exhaustive investigation into all of the matters connected therewith having been made by the Commission, public hearings having been held and the matters submitted for decision, the Commission now makes its findings of fact as follows:

1. That the existing grade crossings of the Southern Pacific Company's tracks on Alameda street, at College street, North Main street, Macy street, Aliso street, Commercial street, Jackson street, East First street, East Second street, East Third street, East Fourth street, East Sixth street, Industrial street, East Seventh street, East Eighth street, East Ninth street, East Fourteenth street and East Fifteenth street, in the city of Los Angeles, and certain existing grade crossings adjacent to the Los Angeles River in the city of Los Angeles, to wit: the crossing of Macy street by the tracks of The Atchison, Topeka and Santa Fe Railway Company and by the tracks of the Los Angeles and Salt Lake Railroad Company, the crossing of Aliso street and of the tracks of the Pacific Electric Railway Company thereon by the tracks of The Atchison, Topeka and Santa Fe Railway Company and by the tracks of the Los Angeles and Salt Lake Railroad Company and the crossing of Seventh street by the tracks of The Atchison,

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Topeka and Santa Fe Railway Company and by the tracks of the Los Angeles and Salt Lake Railroad Company are unsafe, and the continued use thereof for the movement of trains by the said respective carriers using such crossings endangers the employees of said carriers and the public generally; and that public interest, safety, convenience and necessity require that all such dangerous conditions at said crossings be eliminated.

2. That the existing passenger stations of The Atchison, Topeka and Santa Fe Railway Company at East Second street and Santa Fe avenue in the city of Los Angeles, and of the Los Angeles and Salt Lake Railroad Company at East First street near the east bank of the Los Angeles River in the city of Los Angeles, are improper, inadequate and insufficient to promote the security, convenience and necessity of the public. That the existing depot of the Southern Pacific Company at Fifth and Alameda streets in the city of Los Angeles does not conform to the plan for the elimination of said dangerous railroad grade crossings in the city of Los Angeles herein found to be required by public safety, convenience and necessity.

3. That in order to eliminate the dangerous grade crossings hereinabove enumerated and to provide adequate and sufficient passenger stations for the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and Los Angeles and Salt Lake Railroad Company, in the city of Los Angeles, for the promotion of the security, convenience and necessity of their employees and that of the public generally, and to secure adequate service and facilities for the performance by the said defendants, and each of them, of their public utility functions in the State of California, it is necessary, and the public safety, convenience and necessity require that a new structure or structures, to wit, a union passenger station and buildings incidental thereto, be erected by the defendants, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and in connection therewith such improvements and changes in existing facilities of said defendants be made by said defendants as may be reasonably necessary and incidental to the use of said union passenger station, and that all railroad traffic be eliminated from Alameda street, between College street and Fifteenth street, inclusive, in the city of Los Angeles, except local freight switching. That public safety, convenience and necessity require that a separation of grades be made by the defendants specified in the order herein at the said crossings adjacent to the Los Angeles River in the city of Los Angeles, to wit, the crossing of Aliso street and the tracks of the Pacific Electric Railway Company thereon by the tracks of The Atchison, Topeka

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and Santa Fe Railway Company and by the tracks of the Los Angeles and Salt Lake Railroad Company, the crossing of Macy street by the tracks of The Atchison, Topeka and Santa Fe Railway Company and by the tracks of the Los Angeles and Salt Lake Railroad Company and the crossing of East Seventh street by the tracks of The Atchison, Topeka and Santa Fe Railway Company and by the tracks of the Los Angeles and Salt Lake Railroad Company.

4. That public safety, convenience and necessity require that the location and the site of the union passenger station referred to in paragraph three of these findings be within that portion of the city of Los Angeles bounded by Commercial street, North Main street, Redondo street, Alhambra avenue and the Los Angeles River.

Basing its order upon said findings of fact and the further findings and statements of fact contained in the original opinion in this case and the opinion preceding this order;

It is hereby ordered:

1. That the defendants, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, proceed to the procurement of sufficient grounds within the boundaries hereinafter set out, and proceed with the construction of an adequate union passenger station thereon and buildings incidental thereto in the city of Los Angeles, and to make such additions to, extensions of, improvements and changes in the existing railroad facilities of said companies as may be reasonably necessary and incidental to the use of said union passenger station.

2. That the site of the union passenger station referred to in paragraph one of this order shall be within that portion of the city of Los Angeles bounded by Commercial street, North Main street, Redondo street, Alhambra avenue and the Los Angeles River.

3. That said Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, within six (6) months from the effective date hereof, file with this Commission, for its approval, a general plan or plans, with the necessary profile or profiles, and general and detailed drawings, of a union passenger station located on said site, together with all additions to, extensions of, improvements and changes in existing railroad facilities as are reasonably necessary and incidental to the use of said union passenger station; also estimates of cost of construction of said union passenger station, together with said necessary facilities and additions to, extensions of, improvements and changes in existing railroad facilities; also estimates of damages and of salvage; also description and plans of the neces-

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sary temporary operating arrangements during the period of the transition pending the completion of said new union passenger station.

4. That at the time of the filing of the plans referred to in paragraph three of this order, the said Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, shall file with this Commission a statement of the proportionate expense which each of said defendants is to bear for the procurement of said site and the construction of said union passenger station and said necessary facilities and changes, additions, extensions and improvements to existing facilities; and in the event said defendants shall fail to file said statement, showing the proportion of the expense which each of them is to bear, as herein required, this Commission will proceed to fix and apportion said expense to each of said defendants.

5. That upon the filing of the plans referred to in paragraph three of this order, this Commission will either approve said plans or require the same to be modified until they meet with its approval. Work upon the construction of said union passenger station shall commence within ninety (90) days after the approval by the Commission of said plans and shall be completed within three (3) years from that date, unless for good cause an extension of time is granted.

6. The defendants, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, shall proceed to the construction of such viaducts, work and structures as may be necessary to provide for a separation of the grades of the railway tracks of said defendants from the public streets at Macy and East Seventh streets in the city of Los Angeles.

7. That said The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, shall, within sixty (60) days from the effective date of this order, file with this Commission a general plan or plans providing for grade separations at said Macy and Seventh streets; also profile or profiles and detailed drawings of viaducts necessary for such grade separations, together with estimates of the cost of construction for each viaduct and for incidental expenditures and for damages.

8. That at the time of filing the plans referred to in paragraph seven of this order, the said The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, and the city of Los Angeles shall file with this Commission a statement showing the proportionate expense which each of said defendants and said city is to bear for the construction of said viaducts and other necessary works for the separation of grade crossings. In the event said defendants and said city shall be unable

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to agree as to the proportionate expense to be borne by each for the viaducts and works necessary to the separation of said grades, the expense of such structures and works shall be apportioned to each of said defendants and said city by this Commission.

9. That upon the filing of the plans referred to in paragraph seven of this order, this Commission will either approve said plans or require the same to be modified until they meet with its approval. Work upon said viaducts, structures and works for the separation of grades at said Macy street and Seventh street shall commence within thirty (30) days after the approval by the Commission of said plans, and shall be completed within two (2) years from that date, unless for good cause an extension of time is granted.

10. That defendants, The Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company and the Pacific Electric Railway Company, and each of them, shall proceed to the construction of such viaducts, works and structures as may be necessary to provide for a separation of the grades of the railway tracks of said defendants from the public street at Aliso street in the city of Los Angeles, and of the tracks of the Pacific Electric Railway Company from the tracks of said other defendants.

11. That said The Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company and the Pacific Electric Railway Company, and each of them, shall, within sixty (60) days from the effective date of this order, file with this Commission a general plan or plans, providing for said grade separations at Aliso street; also profile or profiles and detailed drawings of viaducts necessary for such grade separations, together with estimates of cost of construction for each viaduct and for incidental expenditures and for damages.

12. That at the time of filing the plans referred to in paragraph eleven of this order, the said The Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company and the Pacific Electric Railway Company, and each of them, and the city of Los Angeles, shall file with this Commission a statement showing the proportionate expense which each of said defendants and said city is to bear for the construction of said viaducts and other necessary works for the separation of said grade crossings. In the event said defendants and said city shall be unable to agree as to the proportionate expense to be borne by each for the viaducts and works necessary to the separation of said grades, the expense of such structures and work shall be apportioned to each of said defendants and said city by this Commission.

13. That upon the filing of the plans referred to in paragraph eleven of this order, this Commission will either approve said plans

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or require the same to be modified until they meet with its approval. Work upon said necessary viaducts, structures and works for the separation of grades at said Aliso street shall commence within thirty (30) days after the approval by the Commission of said plans and shall be completed within two (2) years from said date, unless for good cause an extension of time is granted.

14. That upon the completion of the union passenger terminal, as required by this order, the defendant, Southern Pacific Company, shall discontinue the operation of trains on Alameda street, between College street and Fifteenth street, inclusive, in the city of Los Angeles, except for the purpose of local freight switching, which may be carried on during limited hours to be hereafter fixed by supplemental order.

It is hereby further ordered, that Application No. 3346 of the above entitled proceedings, be and the same is hereby dismissed.

The effective date of this order is hereby fixed and designated as the third day of January, 1922.

Wherever in this order a time is fixed for the doing of any act or the compliance with any term or condition of the order, such time shall be computed from said date.

The Railroad Commission reserves the right to make such further order or orders in these proceedings relating to the construction, operation, modification and abandonment of facilities, to costs and division of costs, and to all other matters relating thereto, as may be determined by the Commission to be just and reasonable and as public safety, convenience and necessity may require.

Dated at San Francisco, California, this sixth day of December, 1921.

DECISION NO. 9839.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF MODESTO GAS COMPANY, ON THE COMMISSION'S OWN MOTION.

Case No. 1662.

Decided December 6, 1921.

GAS UTILITY—RATE BASE.—Capital items which are at present nonoperative are excluded from the rate base. Expenditures for a lot and its preparation for the erection of a general office building can not be included in the rate base until the building is actually occupied and the rent on the present quarters discontinued.

Frank A. Cressey, Jr., for Modesto Gas Company.
A. J. Carlson, City Attorney, for Modesto.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Modesto in the above case, instituted upon the Commission's own motion, to

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determine whether or not reported material reductions in the price of crude oil had been sufficient to justify a reduction in rates charged for gas. Exhibits referred to in the testimony, embodying additional information requested by the Commission's engineers, to be submitted after the hearing, have now been received and filed and the matter is ready for decision.

The Modesto Gas Company is a utility engaged in the manufacture, distribution and sale of gas in the city of Modesto.

The capital investment in physical property was given special consideration in this proceeding. A detailed valuation of this property was made as of April 1, 1916, by the Commission's engineers in connection with Applications Nos. 2206 and 2207. Since that time the company has made extensive improvements and additions to its equipment. A check of these additions and betterments shows that the expenditures are not excessive, but appear to have been wisely made with due consideration to the rendering of adequate service at present and for a reasonable growth of business in the future. Certain of the capital items have, however, been eliminated from the rate base as nonoperative property at this time. These items include expenditures for a lot and its preparation for the erection of a general office building. This can not be included in the rate base until the building is actually occupied and the rent on the present quarters discontinued. A few other minor deductions have been made for equipment retired from service. The rate base adopted for this proceeding is as follows:

RATE BASE.

Modesto Gas Company.

Fixed capital as of August 31, 1921	$319,500 00
One-half estimated additions for following year	6,700 00
Average month oil supply	3,130 00
Materials and supplies	4,870 00
Working cash capital	8,500 00
Total rate base	$342,700 00

The operating expenses of the Modesto Gas Company have in the past been quite reasonable with the exception of oil use, but the evidence shows a contemplated increase of $9,373.20 in pay roll during the following year while the increase in sales estimated by the company is only 8 per cent. The estimate of the operating expenses used for rate fixing purposes herein are based upon an estimate of sales amounting to 72,000,000 cubic feet and includes approximately $6,500 of the above mentioned increase in pay roll, which amount appears reasonable. The duty of oil used herein is 11.1 gallons per 1000 cubic feet sold as compared with the average of 12.6 gallons per 1000 cubic feet for 1920. This smaller use of oil should not be exceeded under present conditions.

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ESTIMATED OPERATING EXPENSES.

Modesto Gas Company for Year Ending August 31, 1922.

Production.		
Oil	$38,100 00	
Operation and maintenance	18,770 00	$56,870 00
Transmission and distribution.		
Operation and maintenance		14,370 00
Commercial expense		5,400 00
General expense		13,000 00
Taxes		11,170 00
Total operating expenses		$100,810 00

The present rates for Modesto Gas Company were established by Decision No. 7581 and became effective May 20, 1920. These rates were based upon an average price of oil of $2.04 per barrel. Between May, 1920, and the present time oil price increased and later decreased to the present price of $2 per barrel.

The existing rates have yielded during the past twelve months a gross revenue amounting to $1.875 per thousand cubic feet of gas sold. Upon the previously mentioned estimates of sales for the year ending August 31, 1922, these rates will supply a gross revenue of about $135,000. In the following tabulated data it is shown that after deduction for the operating expenses, depreciation and an allowance for accounts which are uncollectible, a sum of $27,400 will be available for return upon the investment.

ESTIMATED TOTAL REVENUE, EXPENSES AND ANNUAL CHARGES.

Modesto Gas Company for Year Ending August 31, 1922.

Gross revenue from 72,000 M cubic feet sales at $1.875		$135,000 00
Operating expenses	$100,810 00	
Depreciation	6,120 00	
Uncollectible accounts	670 00	107,600 00
Return on investment		$27,400 00

This return is 8 per cent upon the rate base.

While there has been a slight reduction in the price of oil below that upon which the present rates were fixed, there have occurred increases in taxes and other operating expenses so that there is practically no change in the total cost of service. No modification in the rates is possible at this time.

It is advisable, however, to introduce a form of rate which may be modified, by a supplemental order from the Commission without a hearing, to correct for changes in the price of oil. The cost of producing gas in this system varies by approximately 2.6 cents per 1000 cubic feet with a variation of 10 cents per barrel in the price of oil. The rates herein will be so fixed as to vary on this basis.

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ORDER.

This Commission having instituted an investigation on its own motion into the gas rates, service and operations of Modesto Gas Company, an investigation having been made, a public hearing having been held and the matter submitted:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in Decision No. 7581 as modified herein are just and reasonable rates to be charged for gas service by Modesto Gas Company.

Basing its order on the foregoing findings of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Modesto Gas Company charge and collect for gas served by it the schedules of rates for the service specified as contained in the order in Decision No. 7581, dated May 17, 1920.

It is hereby further ordered, that Modesto Gas Company amend its schedules of rates Nos. A and B by filing with the Commission within ten days after the date of this order an amendment to each of said schedules No. A and No. B, reading as follows:

> The above rates, upon approval of the Railroad Commission of the State of California, are subject to increase or decrease on the basis of two and six-tenths (2.6) cents per thousand cubic feet of gas for each ten (10) cents per barrel increase or decrease, respectively, in the price of oil above or below the price of $2 per barrel f. o. b. Modesto. The change to be to the nearest one cent.

It is hereby further ordered, that:

1. In case of a reduction in the price of oil Modesto Gas Company shall file within ten (10) days thereafter an affidavit setting forth the new price of oil, and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth.

2. Should at any time an increase in the price of oil occur, Modesto Gas Company may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined under the schedules herein set forth.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of December, 1921.

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DECISION NO. 9840.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF COAST COUNTIES GAS AND ELECTRIC COMPANY, ON THE COMMISSION'S OWN MOTION.

Case No. 1660.

Decided December 6, 1921.

Leo H. Sussman, for Coast Counties Gas and Electric Company
A. W. Sans, City Attorney, for City of Watsonville.
George W. Smith, City Attorney, for City of Santa Cruz.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Watsonville in the above case, instituted upon the Commission's own motion, to determine whether or not reported material reductions in the price of crude oil had been sufficient to justify a reduction in rates charged for gas. Exhibits referred to in the testimony, embodying additional information requested by the city attorneys and by the Commission's engineers, to be submitted after the hearing, have now been received and filed and the matter is ready for decision.

The Coast Counties Gas and Electric Company is a utility engaged in the manufacture, distribution and sale of artificial gas in the incorporated cities and towns of Santa Cruz, Watsonville, Hollister and Gilroy and certain territory adjacent thereto. The present rates for gas, effective July 26, were established by Decision No. 7900 in Application No. 5526. The price of oil at the various manufacturing plants of the utility at that time was as follows: Santa Cruz, $2.228; Watsonville, $2.326; Hollister, $2.439, and Gilroy, $2.326. During the past few months there has been a material reduction in the price of fuel oil, the present prices being: Santa Cruz, $1.65; Watsonville, $1.73; Hollister, $2.05, and Gilroy, $1.91.

The capital investment in physical property of the Coast Counties Gas and Electric Company is reasonable, considering the number of consumers served and the fact that the operations cover communities requiring a manufacturing plant in each, and therefore has been used in the new rate base herein allowed. Reductions, however, amounting to about $10,000, have been made in the utility's estimates for materials and supplies and working cash capital. Allowance for materials and supplies on hand are considered sufficient in amount to include tools. Allowance for working capital is modified because fuel oil has been included by the utility under materials and supplies.

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The rate base used is therefore as follows:

RATE BASE YEAR ENDING JULY 31, 1922, COAST COUNTIES GAS AND ELECTRIC COMPANY.

Gas Department.

	Santa Cruz	Watsonville	Hollister	Gilroy	Total
Average physical capital for year ending July 31, 1922	$249,206 00	$128,865 00	$83,126 00	$39,813 00	$500,810 00
Materials and supplies, including oil	6,900 00	4,400 00	2,600 00	2,100 00	16,000 00
Working cash capital	5,900 00	3,800 00	2,200 00	2,100 00	14,000 00
Rate base	$242,006 00	$136,865 00	$87,926 00	$44,013 00	$530,810 00

The estimates of operating expenses submitted by the company are reasonable and in the light of the other evidence in this case have been accepted for rate fixing. The allowances for gas oil, however, have been modified somewhat in view of the savings and economies which it is believed reasonable to expect. The following table shows the actual operating statistics for the year ending July 31, 1921:

GAS OPERATING STATISTICS FOR YEAR ENDING JULY 31, 1921.

	Santa Cruz	Watsonville	Hollister	Gilroy	Total
Average number of consumers	2,081	1,193	531	478	4,283
Gas sold—M cubic feet	52,550	30,895	12,011	10,443	105,899
Barrels oil used	15,435	10,278	4,342	4,162	34,217
Gallons oil per M sold	12.5	13.9	15.2	16.7	
Revenue—gas sales	$97,692 25	$57,778 02	$25,014 15	$21,377 59	$202,462 01
Operating expenses	81,512 80	54,498 13	27,630 66	25,540 80	189,182 39
Net for return	$16,179 45	$3,279 89	$2,616 51	$3,563 21	$13,279 62
Physical property	$234,206 27	$121,664 86	$82,125 81	$38,812 71	$476,809 65

The estimate of sales, oil requirements, operating expenses and taxes used herein are shown in detail below:

COAST COUNTIES GAS AND ELECTRIC COMPANY ESTIMATES FOR YEAR ENDING JULY 31, 1922.

Gas Department.

	Santa Cruz	Watsonville	Hollister	Gilroy	Total
Estimated sales and oil requirements—					
Sales—M cubic feet	58,000	32,700	13,000	11,200	114,900
Gallons oil per M sold	12.5	12.4	13.25	13.40	
Estimated operating expenses—					
Production:					
Oil	$28,500 00	$16,700 00	$8,900 00	$6,830 00	$60,930 00
Operation	13,000 00	8,500 00	6,100 00	5,300 00	32,900 00
Repairs	4,000 00	3,200 00	800 00	1,600 00	9,600 00
Distribution:					
Operation	3,800 00	4,000 00	3,000 00	1,500 00	12,300 00
Repairs	3,400 00	1,200 00	200 00	800 00	5,600 00
Commercial expenses	5,400 00	2,600 00	1,200 00	1,700 00	10,900 00
Taxes	9,200 00	5,900 00	1,900 00	1,600 00	18,600 00
General and miscellaneous expense	5,600 00	3,400 00	1,475 00	1,475 00	11,950 00
Total operating expenses	$72,900 00	$45,500 00	$23,575 00	$20,805 00	$162,780 00

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Estimating total sales from the four plants for the year ending July 31, 1922, at 114,900,000 cubic feet, as shown above, and using the present rates, which yield an average of $1.91 per 1000 cubic feet, the estimates of total revenue and expense of the company from all plants at present rates is as shown below:

ESTIMATED TOTAL REVENUE EXPENSE—ANNUAL CHARGES FOR YEAR ENDING JULY 31, 1922.

Gas Department, All Districts.

Gross revenue from 114,900 M cubic feet sales at $1.91		$219,290 00
Operating expenses, including taxes	$162,780 00	
Depreciation	15,000 00	
Rental of plant	600 00	
Uncollectible accounts	1,100 00	179,480 00
Revenue available for return		$39,810 00

Rate of return, 7.5 per cent upon rate base.

It appears from the above analyses that although there has been considerable reduction in the price of oil to the Coast Counties Gas and Electric Company, other operating costs have increased to such an extent that no reduction in rates is possible at this time. Careful study shows these operating expenses to be reasonable under present conditions.

The inability of this company to earn a full return in its gas department is due largely to the two small properties—Hollister and Gilroy—where, with the present rate, it is possible to earn only a little more than operating expenses. The present rates in these communities are as high as can properly be fixed without curtailing sales.

A form of rate which may be adjusted by supplemental order of the Commission, to correct for changes in the price of oil without a formal hearing, has been adopted in many other proceedings and is found advisable in this case as far as Santa Cruz and Watsonville are concerned. For this purpose a variation of three (3) cents per 1000 cubic feet of gas sold for each ten (10) cents per barrel variation in the price of oil is found reasonable for these communities. No variation is provided for in the Hollister and Gilroy rates for the reasons stated above.

ORDER.

This Commission having instituted an investigation on its own motion into the gas rates, service and operations of Coast Counties Gas and Electric Company, an investigation having been made, a hearing having been held and the matter submitted:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in Decision 7908, as modified herein, are just and

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reasonable rates to be charged for gas service by Coast Counties Gas and Electric Company.

Basing its order on the foregoing findings of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Coast Counties Gas and Electric Company charge and collect for gas served by it in the various communities in which it is now served the schedules of rates contained in the order in Decision No. 7908, dated July 26, 1920.

It is hereby further ordered, that Coast Counties Gas and Electric Company amend its schedules of rates Nos. 1, 2 and 5 by filing with the Commission within ten days after the date of this order an amendment to said Schedule No. 1, reading as follows:

> The above rates, upon approval of the Railroad Commission of the State of California, are subject to increase or decrease on the basis of three (3) cents per thousand cubic feet of gas for each ten (10) cents per barrel increase or decrease, respectively, in the price of oil above or below the price of $1.65 per barrel f. o. b. Santa Cruz. Change to be to the nearest one cent;

and by filing an amendment to Schedule No. 2, reading as follows:

> The above rates, upon approval of the Railroad Commission of the State of California, are subject to increase or decrease on the basis of three (3) cents per thousand cubic feet for each ten (10) cents per barrel increase or decrease, respectively, in the price of oil above or below the price of $1.73 per barrel f. o. b. Watsonville. Change to be to the nearest one cent;

and by adding to Schedule No. 5 the following paragraph:

> The above rates, upon approval of the Railroad Commission of the State of California, are subject to increase or decrease on the basis of three (3) cents per thousand cubic feet of gas for each ten (10) cents per barrel increase or decrease, respectively, in the price of oil above or below the price of $1.65 per barrel in Santa Cruz or $1.73 per barrel in Watsonville. Change to be to the nearest one cent.

It is hereby further ordered, that:

1. In case of a reduction in the price of oil at any time, Coast Counties Gas and Electric Company shall file within ten (10) days thereafter an affidavit setting forth the new price of oil, and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth.

2. Should an increase in the price of oil occur at any time, Coast Counties Gas and Electric Company may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined under the schedules herein set forth.

Dated at San Francisco, California, this sixth day of December, 1921.

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DECISION NO. 9843.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN INVESTIGATION BY THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA OF THE RATES AND FARES CHARGED BY APPLICANT IN CONNECTION WITH THE OPERATION OF ITS STREET RAILWAY SYSTEM IN THE CITY OF SACRAMENTO.

Application No. 6138.

Decided December 8, 1921.

JURISDICTION, FARES, FRANCHISES.—It is held that the jurisdiction of the Commission is well established to increase fares above the maximum specified in a street railway franchise.

INJURIES AND DAMAGES.—The costs of injuries and damages as charged to the railway department and reported to this Commission should be actual and not a prorated figure, as at present.

DEPRECIATION.—Annual charges for depreciation are ordered carried and reported in the proper accounts and hereafter must be based upon the amount found by the Commission.

RATE OF RETURN.—It is held that under existing conditions a seven-cent fare is justified; that if the city of Sacramento makes amendment to ordinances, permitting rerouting, elimination of street sprinkling and early morning trips, six-cent fare is reasonable, and that if in addition to these franchise modifications, an ordinance forbidding one-man operation of cars is repealed a five-cent fare is reasonable.

RATE OF RETURN.—It is pointed out that while the returns indicated are less than desired by applicant, higher rates of fare would result in causing many patrons to walk or seek other means of transportation.

Charles P. Cutten, for Applicant.
R. L. Shinn, for City of Sacramento
George J. Bradley, for Merchants and Manufacturers' Association of Sacramento.

BENEDICT, *Commissioner*.

OPINION.

In this application Pacific Gas and Electric Company asks that the Commission make an investigation of the rates and fares charged by it in the operation of its street railway in the city of Sacramento and thereafter fix and establish such rates and fares as will permit it to earn a fair and reasonable return upon the valuation of its properties used and useful in its street railway business. No specific increases in the rates of fare are mentioned.

Public hearings were held in Sacramento October 19, 1920, before Commissioner Devlin and on September 1, 1921, before Commissioner Benedict. The matter was submitted upon briefs at this last hearing and such briefs have been filed by protestant, the city of Sacramento, and by applicant.

At the first hearing counsel for the city of Sacramento questioned the jurisdiction of the Commission contending that where the maximum fare was specified by the street railway franchises, the Commission had no power to increase the fare above this maximum. The jurisdiction of the Commission is well established in a matter of this nature

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in many proceedings before the courts and in our opinion counsel's contention cannot be allowed.

At this same hearing applicant introduced its Exhibit No. 1 giving condensed operating statements for the year 1919, for the year ending June 30, 1920, and for the years 1920 and 1921, estimated; detail of revenue and expenses for the year ending June 30, 1920, and condensed operating statements for the years 1913 to 1918, both inclusive.

Subsequently the presiding commissioner stated that two courses of action were open to the Commission: it could hear the evidence and make its decision, acting purely in a judicial capacity, or its engineering department could prepare a valuation of the street railway properties and conduct a survey and analysis of the service and operating conditions and submit a report. This report, were this done, would be given to the interested parties and after time for examination, a further hearing would be held. It was made clear, however, that in making such a report the engineering department must necessarily have the cooperation of both the city and the company. The second procedure was deemed preferable and all parties agreed to cooperate.

The engineering department was thereupon instructed to proceed and during the spring of this year both the valuation and report on the service and operation were submitted to the parties to this proceeding with a letter stating that the engineering department would be glad to explain or give consideration to any matters in connection therewith that might be brought up.

At the second hearing Mr. H. G. Weeks, one of the Commission's engineers, introduced a valuation of the properties of the Sacramento Street Railway and his report on service and operation on these properties, the former being identified as Commission's Exhibit No. 1 and the latter as Commission's Exhibit No. 2, the report being dependent upon the valuation for the rate base used. Commission's Exhibit No. 2 includes a supplemental report dated August 30, 1921, showing results of operation during a period later than the original report and presenting a revised valuation, besides correcting one or two errors in original report. A short time before the hearing a supplemental report dealing only with the valuation was submitted by Assistant Engineer R. C. Ashworth, this supplemental report being bound with and included in Commission's Exhibit No. 1.

In Commission's Exhibit No. 1 the valuation of these properties as of December 31, 1920, is stated as follows:

Basis of valuation	Reproduction cost	Condition	Reproduction cost less depreciation
Historical	$1,984,765 52	73%	$1,457,851 52
Reproduction (new)	3,403,631 52	74%	2,515,221 52

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These valuation figures were obtained by adding to the inventory and appraisal as of December 31, 1919, additions and betterments during the year ending December 31, 1920. The inventory and appraisal was made as of the former date because applicant was engaged in making a valuation of all of this property as of that date, and the valuation upon the reproduction new basis is used because applicant was preparing its valuation on that basis. The valuation figures cover only operative property, properly chargeable to Road and Equipment, I. C. C. Account 401.

Since, however, this proceeding was one which involved rates, a valuation upon the historical reproduction cost basis also was made predicated upon construction under historical topographical conditions and unit prices actually paid or current at the time various items were installed. Under reproduction, new, present topographical conditions are assumed and the unit prices used are taken as an average over the two years ending December 31, 1919.

No questions were asked and no objection made to the valuation (Commission's Exhibit No. 1). Applicant did, however, introduce its own valuation, and while this includes estimates on various bases a comparison as of December 31, 1920, for historical reproduction cost undepreciated with the valuation of our engineering department seems all that is necessary. This is as follows:

Applicant	$2,178,560 00
Engineering department	1,984,765 52
Difference	$193,794 48

While there is considerable difference between the figures submitted by applicant and those submitted by the engineering department, applicant's engineer admitted, upon cross-examination, that, considering historical reproduction cost only, the main element of difference was in the so-called overhead accounts and a slight difference also occurred because a proportion of the general office building and equipment in San Francisco was included in applicant's valuation, these two classes of difference being practically all that existed.

Inasmuch as the general office land, buildings and equipment in San Francisco are used proportionately in the conduct of the street railway and inasmuch as Commission's Exhibit No. 1 did not include these figures, an addition should be made to the valuation (Commission's Exhibit No. 1) in order that this part of the properties be included. At the time the engineering department's valuation was made, sufficient data was not available. The amount included for these items for historical reproduction cost in applicant's Exhibit No. 3 is $10,475, apportioned to the street railway department in the same

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ratio as the street railway revenue bears to system revenue. This ratio is a little over 2 per cent. For the purpose of this proceeding the same figure may be added to the totals in Commission's Exhibit No. 1.

In applicant's Exhibit No. 2 additions and betterments for the year 1921 (five months estimated) is stated at $62,964, and in order to arrive at an average figure for the year, half of this figure may also be added to the totals in Commission's Exhibit No. 1.

Applicant's figure of $2,334,585 submitted as the investment, according to company's books, as of December 31, 1920, can hardly be used as a basis of accurate calculation, as the testimony shows that the company's books were not in times past maintained in accordance with present prescribed accounting; that they were not complete as to certain items; and that the figures upon the lands were estimates.

The following figures will be used for rate base:

Historical reproduction cost as of December 30, 1920	$1,984,765 52
Materials and supplies	24,000 00
Half of additions, 1921	31,842 00
Proportion San Francisco offices	10,475 00
Rate base for 1921	$2,051,082 52

Physical Characteristics.

The street railway, which is operated as a separate department of applicant, carried during 1920 about 14 million fare passengers or about 92 per cent of the street car passengers in Sacramento. It has very little competition. There are 45 miles of track located entirely within the city, 60 per cent of which is laid with girder rail and 70 per cent of which is permanently paved. Service is given by 71 cars, 10 of which are Birney safety one-man cars and the remainder are double-truck California type cars, 55 of this 61 having no airbrake equipment and being of an age generally in excess of 15 years. No power plant equipment is used, the street railway being supplied with energy from the same apparatus as is used to supply electric interurban roads in the city.

Return and Rate of Return.

The figures presented in the report on service and operation were not questioned, except as to annual depreciation. In Commission's Exhibit No. 2, depreciation for the year 1921 was estimated at $42,401. The engineer for applicant estimated depreciation at $56,274, a difference of $13,873. Either of these amounts are of course a proper charge to operating expenses being included under operating accounts 25 and 30. The company's witness stated that if $42,401 were used in

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the set-up of operating expenses it would be necessary to add the $13,873 to operating expenses in order to properly take care of depreciation.

Reproduction cost less depreciation does not indicate or represent any actual loss which must be made up as was contended by applicant. There is no such relation between the difference in reproduction cost and reproduction cost less depreciation, and a depreciation annuity. Reproduction cost less depreciation, in the valuation, when compared with reproduction cost new, simply gives a condition per cent which serves as a guide to the physical condition of the property as compared with new and has, in this proceeding and as computed, no other intent or use. Under these circumstances the estimate of $42,401 will stand and should be used by applicant hereafter as the basis of depreciation on the street railway properties.

In the original report on service and operation it was shown that in 1920 the return was 2.68 per cent; that for 1921 the return was estimated at 1.49 per cent but that with additional revenue in savings and operation amounting to $81,768, the return would be 5.49 per cent, all of these figures being based upon a five cent fare. It was estimated that a six cent fare would increase the return by $92,790, making a total return of 9.98 per cent. It was also brought out that the economies in operation suggested require the cooperation of the city of Sacramento in the amendment of existing franchises and granting a franchise to cross a street intersection.

In the supplemental report, dealing as it did with some eight months actual experience in 1921, the return for the year was estimated as a negative one, a *loss* of $14,078.

Between the dates of the original and supplemental reports, the city of Sacramento passed an ordinance prohibiting the operating of cars with less than two men (later modified, allowing one-man operation in some of the outlying portions of the city). This ordinance added about $27,000 per year to the operating expenses and also made it impossible to effect the economies recommended in the original report, which were based largely upon the installation and use of Birney safety cars. During cross-examination on his report the Commission's engineer requested further time to answer certain questions dealing with the savings that could be effected under existing conditions and it was arranged that the answers to these questions could be furnished subsequent to the hearing. A second supplemental report dated September 12 deals with these questions.

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Using the rate base of $2,051,082.52, the following tabulation shows the present and estimated return and rate of return for different fares and under different conditions:

Return Under Various Conditions and Rates of Fare.

Rate of fare	Additional return for increased fare (net)		Conditions					
			Present conditions		With all relief recommended except 1-man operation		With all recommendations including 1-man operation	
			Return		Return		Return	
	Rate, per cent	Amount	Amount	Rate, per cent	Amount	Rate, per cent	Amount	Rate, per cent
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
5 cents			*$14,078	*0.69	$15,734	0.77	$92,528	4.51
6 cents	12	$87,040	72,962	3.56	102,774	5.01	179,568	8.75
7 cents	17	123,439	109,361	5.33	139,173	6.79	215,967	10.53

Column 2 is percentage of passenger revenue.
Column 3 has taxes deducted.
*Loss.

The figures above lead to the conclusion that under present conditions a seven cent fare is justified; that if the city of Sacramento makes amendment to ordinances permitting rerouting, the elimination of street sprinkling and the elimination of early morning trips, a fare of six cents is reasonable; and that, if all recommendations of Commission's Exhibit No. 2 are adopted, the present fare of five cents, taking into consideration falling costs of material and labor, is also reasonable. While the returns indicated are less than was desired by applicant, it is our opinion that higher rates of fare would result in causing many patrons of the system to walk or seek other means of transportation.

It should be noted that the fare above mentioned is the regular adult fare and that the tabulation and all conclusions above, except under heading, "present conditions," are predicated upon the elimination of the present coupon fare of twenty-two rides for one dollar and also the substitution of a bona fide school ticket fare for the present half fare, as recommended in Commission's Exhibit No. 2. No objections, either by applicant or protestant, were made to these recommendations. In this proceeding all rates have been under consideration and the city has approved of the recommendation to install the school children's ticket. The elimination of the coupon fare and also the substitution in school tickets, above mentioned, are changes in fares that should be made.

The city asks that an opportunity be given it to amend its franchises to give the relief mentioned in the second supplemental report of the Commission's witness, and no particular objection to this was made

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by applicant. It appears that if the order in this matter be made effective on February 1, 1922, this opportunity will have been given.

Certain other matters require consideration. The costs of injuries and damages as charged to the railway department and reported to this Commission should be actual and not a prorated figure, as at present. The annual charges to depreciation should be carried and reported in the proper accounts and hereafter should be based upon the amount set up in Commission's Exhibit No. 2.

The following form of order is recommended:

ORDER.

Pacific Gas and Electric Company having applied to the Commission to fix and establish such rates and fares as will enable it to earn a reasonable return on the valuation of its properties used and useful in its street railway business in Sacramento, an investigation having been made, public hearings held and the matter submitted, it is found as a fact that existing rates do not afford a reasonable return and are unjust and unreasonable for the reasons stated in the foregoing opinion.

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby ordered to file tariffs, effective February 1, 1922, based upon the following rates and fares which are found to be just and reasonable:

1. A one-way fare of seven (7) cents unless and until the changes hereinafter provided are adopted.

2. If the city of Sacramento shall so amend its franchises and ordinances as to permit the changes in operation as set forth in second supplemental report, Commission's Exhibit No. 2, a one-way fare of six (6) cents.

3. The elimination of sale and acceptance of coupon tickets at the rate of 22 for $1 with provision for the redemption of outstanding tickets at applicant's offices within a reasonable time.

4. The elimination and sale of half-fare tickets, with provision for the redemption of outstanding tickets at applicant's offices within a reasonable time.

5. A ticket for bona fide school children at half the adult one-way fare under conditions substantially as recommended in Commission's Exhibit No. 2.

6. If, in addition to the above, the city of Sacramento shall so amend its ordinances as to permit the operation of street cars with and by one man per car, a one-way fare of five (5) cents.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of December, 1921.

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DECISION NO. 9844.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF CENTRAL COUNTIES GAS COMPANY ON THE COMMISSION'S OWN MOTION.

Case No. 1661.

Decided December 8, 1921.

J. E. Jardine and *F. W. Hunter* for Central Counties Gas Company.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Visalia in the above case, instituted upon the Commission's own motion, to determine whether or not reported material reductions in the price of crude oil had been sufficient to justify a reduction in rates charged for gas, and also to pass upon service conditions concerning which complaints had come to the Commission. At the hearing, Central Counties Gas Company filed data relative to its investment in the system, operations and expenses, and the Commission's engineers reported upon their investigation of service conditions and operation. Exhibits referred to in the testimony, embodying additional information requested by the Commission's engineers, to be submitted after the hearing, have now been received and filed and the matter is ready for decision.

The Central Counties Gas Company is a utility engaged in supplying artificial gas to the towns of Visalia, Tulare, Lindsay, Exeter, Strathmore, and Porterville, through a system of high pressure transmission lines from a central gas generating plant located at Visalia. The present rates, effective June 19, 1920, were established by Decision No. 7753 in Application No. 5550, in which the company requested an increase in rates because of increase in the price of oil and other operating expenses. The rates established in the above decision were calculated upon a price of oil at $1.96 per barrel. The price of fuel oil to this company has been reduced to $1.76.

The above rates heretofore authorized were determined upon a rate base approximately equivalent to the investment in physical property as shown by the company's books, which amounts are found to be reasonable. The company submitted testimony showing its added investment since the previous hearing. The average investment in the physical property for the year ending June 30, 1922, is estimated to be $534,300.

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The estimated operating expenses for the year ending June 30, 1922, which are found to be reasonable, based on the facts submitted, are as follows:

Estimated Operating Expenses for Year Ending June 30, 1922.

Production—		
Oil	$63,200 00	
Operation and maintenance	30,500 00	
		$93,700 00
Transmission—		
Operation and maintenance		5,500 00
Distribution—		
Operation and maintenance		15,500 00
Commercial expense		11,000 00
General and miscellaneous expense		13,000 00
Taxes		15,300 00
Total operating expenses		$154,000 00

The estimated sales for this period are 110,000,000 cubic feet of gas. The gross revenue, which is required from these sales if it is to yield an 8 per cent net return upon the rate base, after deductions for the above operating expenses and reasonable allowances for depreciation and uncollectible accounts, is $210,750, as shown below.

Estimated Gross Revenue Required for Year Ending June 30, 1922.

Operating expenses	$154,000 00
Depreciation	13,000 00
Uncollectible accounts	1,000 00
Net for return	42,750 00
Gross revenue required	$210,750 00

Required gross revenue per 1000 cubic feet is $1.90.

The above estimate of gross revenue required for the year ending June 30, 1922, amounts to $1.90 per 1000 cubic feet of gas sales, while that obtained from the present rates during the year ending June 30, 1921, was $2.02. It is, therefore, possible to reduce the existing rates by 12 cents per 1000 cubic feet.

A form of rate which may be adjusted by supplemental order of the Commission to correct for changes in the price of oil without a formal hearing has been adopted in many other proceedings and is found advisable in this case. For this purpose a variation of three cents per 1000 cubic feet of gas sold for each 10 cents variation in the price of oil is found reasonable.

The service of this company has been improved during the past few months. The installation of the new equipment which is at present being made should make it possible for Central Counties Gas Company to render good service. This organization, however, has not fully complied with the Commission's service standards in those matters which require only careful supervision and not additional equipment. Upon the promise of the company to correct these violations, the Commission

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feels that a reasonable time should be allowed for it to remove these violations and to install the present improvements, after which time good service should occur. The Commission is of the opinion that formal action upon service matters may be postponed at this time.

ORDER.

The Commission having instituted an investigation on its own motion into the gas rates, service and operations of Central Counties Gas Company, an investigation having been made, a hearing having been held and the matter submitted:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in Decision No. 7753 should be modified to conform with the schedules herein set forth, and that the rates herein set forth are, under present conditions, just and reasonable rates to be charged for gas service by Central Counties Gas Company.

Basing its order on the foregoing findings of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Central Counties Gas Company charge and collect for gas served by it in the various communities for the service specified, the following schedules of rates on all regular meter readings taken on and after the second day of January, 1922:

SCHEDULE "A."

(570 B. T. U. Gas.)

General Service.

Rate:	Gross	Net
First 500 cubic feet or less per meter per month	$1 25	$1 15
	Per M cubic feet	
Next 2,500 cubic feet per meter per month	$2 00	$1 90
Next 5,000 cubic feet per meter per month	----	1 65
Next 7,000 cubic feet per meter per month	----	1 45
All over 15,000 cubic feet per meter per month	----	1 30

The net rate is effective on all bills paid on or before ten (10) days after date of presentation.

The above rates are, upon approval of the Railroad Commission of the State of California, subject to increase or decrease on the basis of three (3) cents per thousand cubic feet for each ten (10) cents per barrel increase or decrease respectively in the price of oil above or below the price of $1.76 per barrel f.o.b Visalia. Change to be to the nearest one cent.

SCHEDULE "B."

(570 B. T. U. Gas.)

Hotel and Restaurant Service.

Rate:

First 25,000 cubic feet per meter per month	$1 30 per M cubic feet
All over 25,000 cubic feet per meter per month	1 10 per M cubic feet
Minimum bill per meter per month	$27 00

The above rates are, upon approval of the Railroad Commission of the State of California, subject to increase or decrease on the basis of three (3) cents per thousand cubic feet for each ten (10) cents per barrel increase or decrease respectively in the price of oil above or below the price of $1.76 per barrel f.o.b Visalia. Change to be to the nearest one cent.

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It is hereby further ordered, that:

1. In case of a reduction in the price of oil at any time, Central Counties Gas Company shall file within ten (10) days thereafter an affidavit setting forth the new price of oil, and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth.

2. Should at any time an increase in the price of oil occur, Central Counties Gas Company may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined under the schedules herein set forth.

3. Central Counties Gas Company shall, within ten (10) days of the date of this order, file with the Commission the schedules of rates herein set forth.

Dated at San Francisco, California, this eighth day of December, 1921.

DECISION NO. 9846.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE RATES, SERVICE, OPERATING METHODS, ACCOUNTING AND OTHER PRACTICES OF J. G. KIRKMAN TO SECURE EQUITABLE RATES AND EFFICIENT OPERATION AND MANAGEMENT OF HIS TELEPHONE SYSTEM.

Case No. 1667.

Decided December 8, 1921.

RATES—DIFFERENTIAL FOR CLASS OF SERVICE.—Giving the same rates for individual business and residence service held to be poor practice.

RATES—DISCRIMINATION.—Different rates for ten-party service held discriminatory.

SERVICE—SELECTIVE SIGNALING.—The use of selective signaling on party line stations ordered.

SERVICE—OVERLOADING OF LINES.—Permitting more subscribers to be connected to party lines than are permitted under the grade of service furnished is declared to be illegal and is ordered corrected.

SERVICE—EXTENSIONS.—The practice of permitting subscribers to attach their own instruments to a line for extension service, without charge, held to be unfair to other subscribers and ordered discontinued.

MANAGEMENT—RESPONSIBILITY.—The order requires that management must be concentrated in one individual to fix responsibility.

Appearances: *Farnsworth, McClure and Burke*, by *James M. Burke*.

BY THE COMMISSION.

OPINION.

J. G. Kirkman, owning and operating the telephone system at Exeter, Tulare County, under the name of Central Telephone Company, applied to the Commission, in Application No. 6207, for authority to increase his rates for telephone service. In making an investigation in connection with this application, our engineers found that applicant was

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charging discriminatory rates, was not keeping account of his revenue and expenses as prescribed by this Commission and was not practicing various operating methods necessary to give good telephone service economically.

The application for an increase in rates was denied and this proceeding was instituted to permit Mr. Kirkman, hereinafter referred to as the owner, to show cause, if any he has, why the Commission should not order such changes in rates, rules and practices as it finds just and reasonable.

A hearing on this matter was held by Examiner Satterwhite in Exeter on September 24, 1921. Our engineers presented a report setting forth the results of their investigation into the affairs of the utility and made specific recommendations for certain changes. The owner submitted no evidence to disprove or to justify the conditions set forth in this report, copy of which was sent him prior to the hearing. He agreed to the recommendations made in it and, subsequent to the hearing, stipulated by letter that he would install selective signaling apparatus on all his party-line telephones. The necessity for this type of apparatus will be shown under a later paragraph on the subject of service.

We feel that in justice to the owner we should commend him upon the excellent plant and equipment which he has in his telephone system and upon his readiness to make any improvements which will tend to better the service.

Valuation, Revenue and Expenses.

A valuation of this property was made and presented by our engineers in connection with Application No. 6207. The owner did not submit any evidence in Application No. 6207 or in this proceeding relative to the value of the property. After careful consideration of our engineers' figures and of the additions to plant since the date of the appraisal, we find the fair valuation of the property amounts to $31,500 and we use this as a proper rate base.

It was impossible to determine the revenue and expenses of the utility for the year ending August 31, 1921, because no attempt had been made by the owner to keep an accurate record of them prior to February of this year. It was apparent from the analysis made by our engineers, however, that the owner would make a liberal return upon his investment during the coming year with the present rates in effect and with the present force of employees.

Under the rate structure which we authorize, the owner may reasonably expect, during the next twelve months, a gross revenue amounting to $12,000. This anticipates an increase of 10 per cent in the num-

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ber of stations and no increase in the volume of toll business. The present rates would yield approximately the same amount of revenue. Discrimination, however, will be removed by the authorized rates.

A careful estimate of the expenses of the utility during the coming year has been made by our engineers. Their estimate indicates that after making allowance for an additional operator for the busy part of the day and for a depreciation reserve fund for the replacement of depreciable property, the authorized rates will yield a fair return upon the investment.

Rates.

The report referred to above shows that the present rate for individual line telephones is the same for both business and residence service. This, in our opinion, is poor practice in an exchange of this size and we have made a differential between them in our authorized rate structure.

The report also shows that the rate for ten-party suburban service varies from $1.50 to $2 per month for wall telephones and that various other cases of discriminatory rates exist. These, of course, must be rectified.

The authorized rates are set forth in the order following this opinion.

Service.

The service furnished at the time this hearing was held was far superior to that given earlier in the year. However, there still remains room for improvement in certain respects. Supervision over the operators should be improved and extra operating help employed during the busy hours. Allowance has been made for this in our estimate of expenses.

At the present time code signals are used on party line stations. As a result, a four-party line subscriber's bell rings when any one of the other three parties on his line is called. This can be eliminated by the use of selective signaling and, as stated earlier in this opinion, the owner has agreed to install this system.

The owner has permitted more subscribers to be connected to certain party lines than are permitted under the grade of service furnished. This is not only illegal, but is very poor telephone practice and must be corrected.

He has also permitted a practice with certain subscribers which has been found to be detrimental to the service and which is an injustice to the other rate payers. This consists of furnishing a subscriber with a telephone at the usual rate, then permitting him to attach his own instruments to the line, using them as extension sets. This practice must be discontinued.

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Accounting Methods.

In order to keep his books according to the accounting methods prescribed by this Commission in the resolution adopted September 23, 1921, making the Interstate Commerce Commission's Uniform Classification of Accounts for Class C companies effective January 1, 1922, the owner should install a set of books showing the various accounts which he must keep, and should also employ a bookkeeper who is sufficiently familiar with telephone accounting to properly allocate the expenses. Allowance has been made in our estimate for this additional item of expense.

Besides a new set of books, all the various voucher forms, daily work reports and other detail sheets necessary to determine the proper charges should be installed in order to perform the accounting as prescribed.

Our engineers called attention to the fact that the owner kept no record of the class of service desired nor the rate to be paid by applicants for service. This will necessitate the adoption of some form of application blank which must form a part of the owner's permanent records.

The system of collection used by the owner does not permit a check to be made of the amount of money secured. This should be replaced by a duplicate receipt or some other system which will show the amount collected from each subscriber and which will enable an accountant to make a complete analysis of the revenue.

Management.

Certain evidence collected in this case and in Application No. 6207 indicated that there was a lack of responsibility in the management of this system. We feel that this responsibility must be assumed by one individual who will execute the policies and plans of the utility and we have required this in the order.

ORDER.

Proceedings in the above entitled matter having been instituted on the Commission's own motion, the case having been heard, the Commission being fully advised and the matter having been submitted:

The Commission hereby finds that the present rate schedule is discriminatory; that the service should be improved; that the accounting methods should be changed to meet the requirements of the Commission's Uniform Classification of Accounts for Telephone Companies, and that some one individual should be charged with the duty of managing the affairs of the company. Basing its conclusions on the foregoing findings;

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It is hereby ordered, that Mr. J. G. Kirkman, hereinafter referred to as the owner, shall file with this Commission within thirty (30) days from the date of this order, a schedule of rates which will remove discrimination and which in no case will exceed the rates set forth in the following paragraph of the order. This schedule, upon approval by the Commission, may be made effective on and after January 1, 1922.

It is hereby further ordered, that the owner is authorized to file with the Commission within thirty (30) days from the date of this order the following schedule of rates. Upon approval these rates may be made effective:

Rate Schedule.

Classification	Per month, business	Per month, residence
Individual line	$2 75	$2 25
Two-party line	2 25	2 00
Four-party line	2 00	1 75
Suburban 10-party line	2 25	2 00
Extensions	1 00	1 00
	Per annum	Per annum
Farmer line (1)	$7 20	$3 60
Farmer line (2)	9 60	6 00

NOTE—Farmer line rate marked (1) indicates that subscriber owns both the line and the telephone instrument. Farmer line rate marked (2) indicates that the company owns the telephone instrument.

All of the above rates are for wall telephones. Desk telephones are 25 cents additional per month on all classes of service except extensions and farmer lines where the subscriber owns the instrument.

If owner desires he may bill and collect farmer line rental on a monthly basis.

The above rates for individual line, two-party line and four-party line service apply only within the primary rate area which shall be defined by the city limits of the city of Exeter. The following mileage charges shall apply beyond this area:

Mileage.

Classification.	Per quarter mile or fraction thereof
Individual line, per month	$0 50
Two-party line, per month	35
Four-party line, per month	25

Mileage shall be based upon the shortest airline distance from the subscriber's premises to the primary rate area.

It is hereby further ordered, that the service shall be improved by the following:

1. Closer supervision must be maintained over the operating force.

2. An additional operator shall be employed during the "peak load" period of the day when this is necessary to give good service.

3. Selective signaling apparatus shall be installed on all party-line stations. This work shall be completed by February 15, 1922, unless good cause is shown for an extension of time.

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4. No telephone line shall have connected thereto more stations than the grade of service furnished permits. This condition shall be fulfilled within ninety (90) days from the date of this order.

5. The owner shall not permit subscribers to attach privately owned telephones to any exchange lines or stations to be used as extension sets. All such cases existing at this time shall be corrected within thirty (30) days from the date of this order.

It is hereby further ordered, that the owner shall adopt a system of application blanks which will show the class of service desired and the rate to be collected for each applicant for service; a system of duplicate receipts or other means of showing the actual amount of money collected from each subscriber. These shall become effective not later than January 1, 1922, and shall form a part of the permanent records of the company.

It is hereby further ordered, that the owner shall designate to the Commission an individual who shall be responsible for the character of the service furnished and for the management of the company.

It is hereby further ordered, that the owner shall set aside into a depreciation fund the sum of $1,080 per annum in monthly installments of $90 for the purpose of taking care of such renewals and replacements as shall be covered by the fund. He shall file with the Commission within sixty (60) days from the date of this order his suggestions for rules governing the functions and use of the depreciation fund and these rules shall thereafter go into effect as approved or modified by the Commission. The setting aside of the fund shall begin on February 1, 1922.

Dated at San Francisco, California, this eighth day of December, 1921.

DECISION NO. 9856.

IN THE MATTER OF THE APPLICATION OF INTERSTATE GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF STOCK AND BONDS AND TO PURCHASE ALL THE PROPERTY FORMERLY OWNED AND USED AND OPERATED BY IMPERIAL VALLEY GAS COMPANY NOW OWNED BY W. F. HOLT.

Application No. 7054.

Decided December 8, 1921.

Application to issue $100,000 bonds and $150,000 common stock to acquire and rehabilitate gas property denied without prejudice. The Commission held that: The method of financing the acquisition and rehabilitation of the properties to be unsound; will result in over-capitalization and impose a burden of fixed charges upon the properties, making their successful operation very doubtful. Bonds should be issued for the purpose of rehabilitating and improving the properties and not for their acquisition.

Burrell D. Neighbors, for Applicant.

BY THE COMMISSION.

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OPINION.

Interstate Gas Company in the above entitled application asks permission to issue $100,000 of 7 per cent bonds and $150,000 of common stock to acquire the properties formerly owned by Imperial Valley Gas Company but now owned by W. F. Holt, to reconstruct and improve some of the properties and pay for license rights to use the "Hoyt process" to manufacture gas.

A hearing was had on this application before Examiner Geary, at Los Angeles, on October 13. Consideration has been given to the testimony submitted at the hearing and to statements filed subsequent thereto, and this matter is now ready for decision.

W. F. Holt acquired at foreclosure sale the properties formerly owned by Imperial Valley Gas Company. Under date of July 26, 1921, he offered to sell the properties to W. Dieterle, acting on behalf of Interstate Gas Company. He agreed to sell the properties for $50,000 of first mortgage 7 per cent bonds at par of 20 or 30 years duration, as the Railroad Commission may determine, and $125,000 of common stock. Reference will hereafter be made to the issue of the $125,000 of stock.

W. F. Holt is willing to accept in payment for the properties the $50,000 of first mortgage bonds, subject, among others, to the condition that the purchasers secure $45,000 in cash to improve the properties and that the mortgage be a first lien on all the properties except franchises and rights of way located elsewhere than in the cities of El Centro and Imperial. Rights of way not located in the cities of El Centro and Imperial and franchises not pertaining to the operation of the gas plants in those cities shall not be subject to the lien of the mortgage. The mortgage is to contain an after-acquired property clause covering all improvements which may be made to the properties in the cities of El Centro and Imperial.

Applicant proposes to secure the $45,000 in cash necessary for improving the system through the sale of $50,000 of bonds. W. Dieterle, president of Interstate Gas Company, testified that in his opinion the bonds can not be sold without stock being given as a bonus. It appears from the record that the consideration which W. F. Holt is to receive for the properties is $50,000 of first mortgage bonds and that he does not intend to retain the $125,000 of stock. As a matter of fact, it appears from the testimony that the $125,000 of stock will be delivered by W. F. Holt to W. Dieterle and his associates, who plan on distributing some of the stock as a bonus to bond purchasers and retain some as their compensation for services rendered.

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In addition to the $125,000 of stock, applicant asks permission to issue $25,000 of stock for the purchase of an exclusive license right to use the "Hoyt process" for the manufacture of gas. If applicant's requests were granted and the authority exercised, it would have outstanding $150,000 of stock and $100,000 of bonds.

The Railroad Commission by Decision No. 7826, dated July 8, 1920 (Vol. 18, Opinions and Orders of the Railroad Commission of California, page 511), authorized Imperial Valley Gas Company to sell all of its properties to whomsoever may purchase the properties at foreclosure sale and authorized said purchaser to acquire all of said properties and sell all of said properties to the Interstate Gas Company. In the same decision the Commission authorized Interstate Gas Company to acquire all of said properties and issue on or before December 1, 1920, in full payment therefor, $150,000 of stock. The Commission in Decision No. 7826 expressed the opinion that the Interstate Gas Company should not issue more than $150,000 of its common stock to acquire all of the properties of the Imperial Valley Gas Company.

The Interstate Gas Company did not issue any of the stock nor has it acquired the properties. The properties were sold at foreclosure sale to W. F. Holt, who still owns them. They have not been operated since August, 1920. Some of the meters have been removed from private residences and placed in the warehouse. Some of the transmission line between Brawley and Imperial has been taken up. It appears that there is no present intention on the part of those now interested in rehabilitating the properties to replace the Brawley transmission line, or sell gas in Brawley. They intend to confine their operations for the present at least to the El Centro and Imperial properties. Investigations made by the Commission's engineers during the early part of 1920 show that the properties were then in a poor operating condition. Since then, practically nothing has been done to improve the properties. No detailed report or information was filed in connection with this proceeding showing the present condition of the properties. Applicant has, however, filed a statement in which it alleges that with an expenditure of $44,850 the properties can be rehabilitated and the machinery necessary to manufacture gas by the "Hoyt process" installed. The Commission's engineers are of the opinion that $44,850 is not sufficient to place the properties in satisfactory operating condition.

The Commission has heretofore indicated how much stock it will permit Interstate Gas Company to issue to acquire the properties of Imperial Valley Gas Company. There was no evidence introduced which in our opinion justifies a reversal of the Commission's opinion

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and order in Decision No. 7826. The method of financing the acquisition and rehabilitation of the properties, we believe, to be unsound and will result in over-capitalization and impose a burden of fixed charges upon the properties which makes their successful operation very doubtful. Any bonds which applicant may desire to issue should be issued for the purpose of rehabilitating and improving the properties and not for their acquisition.

Because applicant has submitted no evidence showing that it can acquire the properties on the basis outlined in Decision No. 7826, it does not appear to be necessary at this time to discuss further the amount of stock which applicant intends to issue in payment for an exclusive license right to use the "Hoyt process" for the manufacture of gas; nor the amount of stock that will be distributed as a bonus to bond purchasers or as compensation for services rendered by W. Dieterle and his associates; nor the estimated cost of additions and betterments and the estimated operating revenues and expenses. The Commission will consider any requests that may be contained in a supplemental application, provided such requests are predicated upon Decision No. 7826. What action the Commission may take on any supplemental application can obviously not be told until the facts are properly before the Commission.

ORDER.

Interstate Gas Company having applied to the Railroad Commission for permission to issue stock and bonds, a public hearing having been held, and the Commission having considered the evidence submitted and being of the opinion that this application should be denied without prejudice;

It is hereby ordered, that the above entitled application be and it is hereby denied without prejudice.

Dated at San Francisco, California, this eighth day of December, 1921.

DECISION NO. 9859.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF BONDS.

Application No. 7245.
Decided December 10, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 9271, dated November 5, 1921, authorized Southern California Gas Company,

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among other things, to issue $1,000,000 of first and refunding mortgage bonds subject, among others, to the condition that the proceeds from the sale of $507,000 of first and refunding bonds be deposited with the trustee and expended for such purposes as the Railroad Commission might authorize; and

Whereas, Southern California Gas Company reports that prior to September 30, 1921, it expended for extensions, additions and betterments the sum of $136,075.68 which has not been reimbursed by moneys obtained from the sale of bonds; and

Whereas, applicant, to finance these expenditures, in part, asks permission to use the proceeds from the sale of $102,000 of the said $507,000 of bonds; and

Whereas, applicant further asks permission to use the proceeds from the sale of an additional $50,000 of said $507,000 of bonds to reimburse itself for moneys expended in retiring $30,000 of Riverside Light and Fuel Company bonds and a $20,000 note which was a lien on the properties of Economic Gas Company at the time of its acquisition by applicant; and

Whereas, it appears to the Railroad Commission that applicant's request should be granted; now, therefore,

It is hereby ordered, that the order in Decision No. 9271, dated November 5, 1921, be and it is hereby modified so as to permit Southern California Gas Company to use the proceeds from the sale of $152,000 of the $507,000 of first and refunding mortgage bonds referred to in Condition "2" of the order in said Decision No. 9271, to reimburse its treasury, in part, and to finance the cost of the extensions, additions and betterments referred to herein;

It is hereby further ordered, that the order in Decision No. 9721, dated November 5, 1921, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this tenth day of December, 1921.

DECISION NO. 9862.

CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION,

vs.

SPRING VALLEY WATER COMPANY.

Case No. 842.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY FOR PERMISSION TO INCREASE THE RATES AND CHARGES FOR WATER FURNISHED BY IT TO THE CITY AND COUNTY OF SAN FRANCISCO AND ITS INHABITANTS.

Application No. 2739.

Decided December 10, 1921.

BY THE COMMISSION.

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ORDER DENYING REHEARING.

Application for rehearing having been filed herein on the twenty-fifth day of October, 1921, by the city and county of San Francisco, a municipal corporation, requesting that a rehearing be had in the above entitled proceedings for the purpose of considering certain allegations contained in a certain resolution of the board of supervisors of said city and county of San Francisco, No. 19,326 (new series) relative to the order heretofore made in these proceedings on the twelfth day of August, 1921 (Decision No. 9352), and as to which said rehearing is sought, and for the further purpose of permitting any interested persons to appear before the Commission and present proof in support of said allegations contained in said resolution; and it appearing to the Commission that the allegations contained in said resolution have already been fully considered in public hearings by the Committee on Public Utilities and Lighting, Water Service and Telephone Service of the city and county of San Francisco, and that their report thereon does not sustain or confirm said allegations;

And it further appearing that all of the matters referred to in said petition for rehearing were fully considered by this Commission prior to the making of its said order (Decision No. 9352) as to which rehearing is sought, and that no new matters are presented or suggested which would justify a further hearing; now, therefore,

It is hereby ordered, that said application for rehearing filed herein on the twenty-fifth day of October, 1921, by the city and county of San Francisco, be and the same is hereby denied.

Dated at San Francisco, California, this tenth day of December, 1921.

DECISION NO. 9863.

IN THE MATTER OF THE APPLICATION OF FRESNO CITY WATER CORPORATION FOR AN ORDER AUTHORIZING IT TO MAKE, EXECUTE AND DELIVER A CERTAIN INDENTURE OF TRUST MORTGAGE OF ITS PROPERTY.

Application No. 7363.

IN THE MATTER OF THE APPLICATION OF FRESNO CITY WATER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF CERTAIN OF ITS FIRST AND REFUNDING MORTGAGE GOLD BONDS.

Application No. 7364.
Decided December 12, 1921.

Murray Bourne, for Applicant.

ROWELL, *Commissioner.*

OPINION.

In Application No. 7363 Fresno City Water Corporation asks permission to execute a mortgage substantially in the same form as the

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amended mortgage filed in said application and marked Exhibit "A". Reference will hereafter be made to certain provisions of the mortgage.

In Application No. 7364 Fresno City Water Corporation asks permission to issue $400,000 of 6½ per cent face value of "Series A of 1956" first and refunding mortgage gold bonds to finance the cost of additions and betterments and to reimburse its treasury on account of earnings expended for such additions and betterments.

The two applications were consolidated for hearing and decision.

On February 10, 1920, the Railroad Commission by Decision No. 7107 (Vol. 17, Opinions and Orders of the Railroad Commission of California, p. 770), authorized Fresno City Water Corporation to acquire the properties of Fresno City Water Company and to execute a mortgage securing the payment of a total issue of $2,500,000 of first and refunding mortgage 6 per cent bonds due September 1, 1959. In that decision, the Commission also authorized applicant to issue $250,000 of said bonds. The record in this proceeding shows that the company issued $50,000 of the bonds at 85 and accrued interest. Thereafter, because of the advance in interest rates, applicant was unable to sell any additional 6 per cent bonds, except at a large discount. Rather than sell the bonds at a large discount, the company deferred the issue and sale of any additional bonds. The testimony shows that applicant has reacquired at 85 and accrued interest the $50,000 of 6 per cent bonds heretofore issued. It now proposes to execute a new mortgage which will permit of the issue of $5,000,000 of bonds in series. Originally, applicant proposed to issue $400,000 of 7 per cent "Series A of 1956" first and refunding mortgage bonds callable at 107 and accrued interest on or before November 1, 1931, and 105 and accrued interest thereafter. The issue of 7 per cent bonds by applicant was questioned by W. C. Fankhauser in charge of the Commission's department of finance and accounts. Recently applicant advised the Commission that it had concluded to reduce the interest rate on the $400,000 of bonds from 7 to 6½ per cent, and that it now proposes to sell the 6½ per cent bonds at 98½ and accrued interest, said bonds being noncallable for 15 years and thereafter at 105 and accrued interest. Amendments to the proposed mortgage to carry into effect the change in the interest rate have been filed by applicant.

Of the $5,000,000 of bonds which may be issued under the proposed mortgage, $235,000 are reserved to retire underlying bonds, $400,000 may be issued forthwith and $4,365,000 may be certified from time to time for the purpose of enabling applicant to acquire additional properties or construct extensions, additions and betterments to its present properties. The $4,365,000 of bonds may be certified in amounts not

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in excess of 75 per cent of the actual money expended or of actual contracted liabilities incurred for the acquisition or construction of new properties, extensions, additions and betterments, provided among other things, that the net income of the company for the period of twelve consecutive calendar months out of the fourteen calendar months immediately preceding the month in which application for certification and delivery of bonds shall have been made has been at least equal to one and three-quarter times the annual interest charges on the company's outstanding bonded indebtedness, including the bonds which the trustee is asked to certify. Reference is here made to the mortgage for a more complete statement of the provisions under which bonds may be certified and issued and the terms and conditions under which the company proposes from time to time to issue the $5,000,000 of bonds. The applications before the Commission cover only the issue of $400,000 of the $5,000,000 of bonds.

The authority herein granted to execute a mortgage securing the payment of an authorized issue of $5,000,000 of bonds in no way carries with it permission to issue and sell or otherwise dispose of any of said bonds. The issue and disposition of the bonds is a matter separate and distinct from the execution of the mortgage.

Applicant, as of September 30, 1921, reports assets and liabilities as follows:

Asset Accounts.

Fixed capital	$1,286,732 24
Sinking fund	82,939 05
Treasury securities	8,265 00
Cash	17,229 76
Materials and supplies	22,642 32
Accounts receivable	349 99
Prepayments	860 42
Bond discount and expense	10,235 92
Undistributed disbursements	12,601 65
Total asset accounts	$1,441,856 35

Liability Accounts.

Capital stock	$350,000 00
Bonds	298,000 00
Notes payable	108,462 26
Interest and taxes accrued	6,631 52
Accounts payable	183,323 67
Reserves	220,623 85
Capital surplus	222,169 82
Surplus	52,645 23
Total liability accounts	$1,441,856 35

The item of "fixed capital," reported at $1,286,732.24, includes $344,985.20 representing franchises and water developments.

The $298,000 of bonds, reported outstanding on September 30, 1921, includes $74,500 of bonds in the sinking fund, $4,000 repurchased by

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the company and $5,000 deposited with the New Amsterdam Casualty Company. The amount of bonds issued and in the hands of the public on September 30, 1921, was reported at $214,500.

The testimony and record show that applicant and its predecessor, Fresno City Water Company, expended for extensions, additions and betterments from October 1, 1912, to September 30, 1921, the sum of $562,549.29. Of these expenditures, $22,074.01 have been financed through the issue of bonds under Decision No. 354, dated November 4, 1912, leaving a balance of $540,475.28 against which no bonds have been issued. To pay for the extensions, additions and betterments, applicant has borrowed money through the issue of short term notes, has incurred indebtedness evidenced by accounts payable and has invested earnings.

Against the reported construction expenditures, of $540,475.28, applicant proposes to issue $400,000 of bonds. It asks permission to use the proceeds from the sale of the $351,057.47 of bonds to pay current indebtedness and reimburse its treasury and use the proceeds from the remainder of the bonds to pay for extensions, additions and betterments installed after September 30, 1921. The order indicates the manner in which applicant may use the proceeds from the sale of its bonds.

I herewith submit the following form of order.

ORDER.

Fresno City Water Corporation having applied to the Railroad Commission for permission to execute a mortgage and to issue $400,000 of bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in this order and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Fresno City Water Corporation be and it is hereby authorized to execute a mortgage substantially in the same form as the mortgage filed in Application No. 7363 and marked Exhibit "A", as amended on December 12, 1921, provided;

That the authority herein granted to execute a mortgage is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

It is hereby further ordered, that Fresno City Water Corporation be and it is hereby authorized to issue $400,000 of its "Series A of 1956" first and refunding 6½ per cent bonds, due November 1, 1956.

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The authority herein granted is subject to further conditions as follows:

1. The bonds herein authorized to be issued shall be sold, for cash, at not less than 98½ of their face value and accrued interest.

The proceeds from the sale of approximately $351,057.47 of bonds shall be used by applicant to finance in part the cost of the extensions, additions and betterments described in Exhibit "A" filed in Application No. 7364. Before using any of the proceeds from the sale of the $351,057.47 of bonds to reimburse its treasury, applicant shall pay all of its notes and accounts payable incurred in connection with the construction of the extensions, additions and betterments described in said Exhibit "A". The proceeds remaining after the payment of said notes and accounts payable may be used by applicant to reimburse its treasury because of earnings expended to pay in part the cost of the extensions, additions and betterments reported in said Exhibit "A", provided that said proceeds be expended for extensions, additions and betterments properly chargeable to capital account under the uniform system of accounts prescribed by this Commission.

3. The proceeds from the sale of $48,942.53 of the bonds shall be expended only for such purposes as the Railroad Commission may hereafter authorize.

4. Fresno City Water Corporation shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

5. The authority herein granted will not become effective until applicant has paid the fee prescribed in section 57 of the Public Utilities Act, which fee amounts to $350.

6. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before April 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of December, 1921.

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DECISION NO. 9864.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA TELEPHONE COMPANY FOR AN ORDER FIXING JUST AND REASONABLE RATES FOR TELEPHONE SERVICE, AUTHORIZING THE FILING OF SAME WITH THE COMMISSION, FIXING A DATE WHEN SUCH JUST AND REASONABLE RATES SHALL BECOME EFFECTIVE, AND DEFINING EXCHANGES AND EXCHANGE BOUNDARIES FOR THE ADMINISTRATION AND APPLICATION OF SAID JUST AND REASONABLE RATES, TOGETHER WITH RULES AND REGULATIONS APPERTAINING THERETO.

Application No. 6285.

Decided December 14, 1921.

INVESTMENT, VALUATION, RATE BASE.—Rate base held not controlling factor in fixing rates for this utility at this time. The competitive conditions of the past rendered unprofitable operations before consolidation. It is declared to be unreasonable to place entirely upon present subscribers the costs and losses incident to consolidation.

OPERATING COSTS AND OTHER EXPENSES AND CHARGES.—Rates fixed are designed to allow the company reasonable operation expenses, including a proper allowance for depreciation and taxes, reasonable compensation to affiliated companies for service rendered or value received, and, in addition, a reasonably fair return, having in mind the essential conditions surrounding this utility.

DEPRECIATION—JURISDICTION.—The contention that the Interstate Commerce Commission has sole jurisdiction over the matter of depreciation is not accepted. The Commission holds that the Public Utilities Act places the duty upon it as the rate-making body to determine the amount of depreciation to be included in the rate base.

TOLL REVENUES AND EXPENSES—APPORTIONMENT OF.—The matter of the apportionment of toll revenues and expenses between the exchange company and the toll company is reserved pending state-wide determination.

SERVICE.—Service conditions are ordered improved and means found to meet the demand for new telephones.

Arthur Wright, *H. D. Pillsbury* and *James T. Shaw*, *Pillsbury, Madison and Sutro*, of Counsel, for the Applicant.
J. E. Stephens and *H. Z. Osborne, Jr.*, for the City of Los Angeles.
Kemp, Mitchell and Silberberg, by *John W. Kemp* and *Carlos S. Hardy*, for Chamber of Commerce of Los Angeles.
Hartley Shaw, for City of Glendale.
Wm. Hazlett, for City of South Pasadena.
John F. Imel, for Culver City.
Mott and Cross, for Goldwyn Producing Corporation.
C. W. Loucks, in propria persona.
O. E. Winburn, for City of Watts.
Ben W. Utter, for the County of Los Angeles.

BRUNDIGE AND ROWELL, *Commissioners.*

OPINION.

In this application the Southern California Telephone Company (hereinafter referred to as the company) asks for an order fixing just and reasonable telephone rates in the territory served by the company in the city of Los Angeles and adjacent thereto. The Commission is also asked to determine proper exchange areas for the service rendered by applicant with interexchange rates comparable with

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those existing in the state at large. The amount of increased annual revenue required by the company is stated to be approximately $2,000,000 and a schedule of proposed rates, designed to produce this additional revenue, is attached to the application.

In support of its application the company makes reference to this Commission's Decision No. 3845 in Application No. 2227 (Opinions and Orders of the Railroad Commission of California, Vol. 11, page 806) and asks that the entire record upon which that decision of November 4, 1916, is based be considered as a part of the present application. The company directs particular attention to page 860 of the decision referred to, being condition 1 (a) and reading as follows:

> That during the period of five years subsequent to the date of this order, Southern California Telephone Company will not make application to the Railroad Commission or any other public authority for any increase in the telephone rates now in effect in the territory in which the company is to operate, except in such minor matters as may be necessary to remove discriminations.

The company states that this stipulation was made and accepted by it without any realization of the imminence of the entry of the United States into the world war and the experience of world-wide changes in economic conditions that have followed. These economic consequences of the war, the company avers, had to be met by the applicant in common with business everywhere, but because of this stipulation the relief open to others through increased rates and revenue was denied to applicant. It would have been impossible, according to applicant, to carry forward its business except through the credit and the resources of the Pacific Telephone and Telegraph Company (hereinafter referred to as the Pacific Company). The condition quoted above has now expired and in its application the company points out that after this expiration it will not be able to rely further upon the credit and resources of the Pacific Company but will be dependent absolutely upon its own credit resources to meet operating expenses and to secure capital for extensions of plant, and that, without immediate assurance of effective relief through increased revenue from rates, its credit and resources will be nil, extensions in progress must stop, and further extensions to care for unprecedented demands in 1921 and subsequent years must halt. The point is further made by the company that, in spite of its difficulties, it has taken care of the heaviest growth ever recorded in the telephone history of the territory served and that there was a waiting list of applicants (at the time of the filing of the application early in November, 1920), in excess of 9000, with the list growing daily, and that the ability to take care of these demands, and to meet the demands for service, is

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absolutely dependent upon securing adequate relief in increased revenue concurrently with the expiration of the stipulation.

Under a literal interpretation of condition 1 (a) referred to, the company stipulated that it would "not make application" to this Commission or any other public authority for an increase in the telephone rates until November 4, 1921. The filing of the application on November 9, 1920, one year ahead of the stipulated time, might have been construed, therefore, as a technical violation of the stipulation. The Commission took this matter up with the Los Angeles city authorities and it was agreed that it would be fair to the company, and not unfair to the telephone users, to commence with the consideration of this application, since of necessity a considerable period, probably not less than a year, must elapse before a proceeding of such magnitude could be concluded. The facts have substantiated that conclusion and this matter is only now ready for a decision.

An unusually large number of complaints regarding the telephone service rendered by the company, and particularly with reference to delayed installations, were received by this Commission during the last two years and the number of such complaints grew subsequent to the filing of this application. It became apparent that the matter of service would be a factor of paramount importance in this case and that an adequate consideration of that factor might unduly delay and interfere with the rate proceeding. The Commission, therefore, on January 27, 1921, commenced on its own motion a proceeding, in Case No. 1531, instituting an investigation into the reasonableness and adequacy of the service rendered by the company, for the following purposes:

> to determine whether the rules, regulations, practices, equipment, appliances, facilities or service of said company are unjust, unreasonable, improper, inadequate or insufficient in any particular and, if so, to determine the just, reasonable, proper, adequate or sufficient rules, regulations, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed, enforced or employed, and to fix the same by order, rule or regulation; to determine whether or not any additions, extensions, repairs or improvements to or changes in the existing plant, equipment, apparatus, facilities or other physical property of said company ought reasonably to be made, or whether any new structure or structures should be erected to promote the convenience of the public, or in any other way to secure adequate service or facilities, and to make any such order in regard thereto as the Commission may determine to be in the interest of public convenience and necessity, directing that such conditions, extensions, repairs, improvements, or changes be made, or that structure or structures be erected in the manner and within the time to be specified in said order.

The proceeding in that case is not yet concluded. To the extent that the record in Case No. 1531 throws light on the matter of service, it will be taken into consideration in this present decision.

Hearings were held in the present application in Los Angeles on March 15 and 16, May 17 and 18, September 20 and on November 7,

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1921. Exhibits were put in evidence by the company, the city of Los Angeles, and the Commission's engineering department, and the list of these exhibits is, for reference, attached to this decision as Supplement "A." In the hearing on September 20, 1921, it developed that a lengthy cross-examination of witnesses would be inevitable if the matter was proceeded with by formal trial by reason, mainly, of the wide divergence of opinion and statements and interpretation of facts as between the company's witnesses, on the one hand, and the city's on the other. It was agreed that it would not be in the public interest to unduly protract this proceeding. As the result of a conference between the representatives of the city and of the company with the presiding Commissioners, it was decided that there should be appointed a joint engineering conference to be composed of the engineers of the Commission, engineers to be appointed by the city and engineers to be appointed by the company, who were to organize immediately under instructions to be issued by the Commission. These instructions would direct this conference to go into all of the exhibits and reports submitted by the company and by the city, and to report back to the Commission, at a later hearing, those matters on which there was agreement and all matters on which there was disagreement. The Commission, accordingly, instructed its chief engineer to take charge of this conference and to arrange for the immediate meeting of the engineers and for the assignment of the work. Under the Commission's letter of instructions the engineering conference was to deal with the following matters:

(*a*) Investment, valuation and rate base.
(*b*) Duplication of property.
(*c*) Analysis of operating expenses, including the question of depreciation.
(*d*) Past and present revenues and estimated revenues under proposed rate structures.
(*e*) Rate areas.
(*f*) Relation between exchange revenues and expenses and toll revenues and expenses.
(*g*) Relation between Southern California Telephone Company, The Pacific Telephone and Telegraph Company, American Telephone and Telegraph Company, and Western Electric Company.
(*h*) Service.

The conference undertook this work and, on November 7, filed its report dealing with all of the matters assigned to it. This report is one of the exhibits in this proceeding. There were filed subsequent to the report of the conference statements by the city and by the company (Exhibit "B" and Exhibit No. 30 of the city and company respectively and reply memorandum of the city to company's Exhibit No. 30), and the matter is now submitted.

After a careful consideration of the entire record we have reached certain conclusions as hereunder discussed under different headings.

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1. Consolidation of Prior Companies and Conditions Growing Out of Consolidation.

Great stress is laid by the company, both in its application and in subsequent hearings, upon the alleged fact that the present applicant came into being as a result of this Commission's Decision No. 3845, in Application No. 2227, above referred to. It is said (in the application) that applicant's corporate existence has its foundation in the conditions culminating in that decision and order. And again, referring to the consolidation proceeding before this Commission, according to counsel for the company, there was no idea as strongly in the minds of the Commission as that, once and for all, they were officiating at the birth of a public utility (Tr. p. 355). It will be useful, therefore, to refer briefly to the consolidation proceeding and to the decision of the Commission in that case, and to consider the consequences of the consolidation.

The Pacific Company and its predecessor, the Sunset Company, have operated in Los Angeles since 1891, when a twenty-five (25) year franchise was granted to the Sunset Company. Until 1902 the Sunset Company enjoyed a monopoly of the telephone business, but in that year the city granted a fifty (50) year telephone franchise to M. A. King and this franchise was subsequently transferred to the Home Telephone and Telegraph Company (hereinafter referred to as the Home Company). Since 1903, therefore, the Pacific Company and the Home Company were in competition with one another and the record shows that in the period 1910 to 1916 the business of the two companies as measured by the number of telephone stations was approximately equal, the Pacific Company exceeding by approximately 10 per cent the number of stations of the Home Company. From the earning standpoint, the operations of the two competing systems were not successful. Home Company's exhibits introduced in Application No. 2227, and checked by the Commission's engineers, show that from 1903 to 1915 the Home Company's net earnings averaged considerably below what may be taken as a normal fair return, although the financial showing of the Home Company, especially during the years 1911 to 1915, inclusive, was much better than the showing of the Pacific Company in its Los Angeles operations. The Pacific Company's net revenue (assuming the accuracy of the Pacific Company's claim for depreciation) was sufficient, apparently, since 1911, to pay 6 per cent interest on the following amounts: in 1911 on $880,000; in 1912 on $2,430,000; in 1913 on $563,000; in 1914 on $1,775,000 and in 1915 on $1,090,000. Compared with these figures, the Pacific Company claimed as of December 31, 1915, "actual performance value" of the

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same date of $7,554,000. It is apparent, therefore, that the Pacific Company's Los Angeles operations for a number of years prior to consolidation were not financially satisfactory. From 1911 to 1915, inclusive, the Pacific Company in no year earned in excess of 2 per cent on its claimed "structural value" as of December 31, 1915, while in 1913 the company earned less than one-half of one per cent on its claimed "structural value." There can be no doubt, therefore, that consolidation on any terms likely to result in a lessening of financial losses was of advantage to the Pacific Company, even if consolidation did not result in actual profits over and above the cost of operation and the cost of money.

Another factor, possibly of greater importance than immediate financial considerations, operated in favor of consolidation. It appears that the franchise granted by the city to the Sunset Company on November 16, 1891, would have expired on the same date in 1916. The people of Los Angeles for a considerable time had been dissatisfied with duplicate telephone service, and the difficulties attending the renewal of a franchise under conditions favorable to the Pacific Company, together with the unfavorable financial outlook towards the past as well as towards the future, conspired to make consolidation a thing devoutly to be wished for from the standpoint of the Pacific Company.

In Decision No. 3845 the Commission makes abundantly clear why permission to consolidate was granted. It was granted because (Opinions and Orders of the Railroad Commission of the State of California, Vol. 11, page 856):

> the facts clearly show that under a condition of consolidation, by reason of a smaller return to be paid on capital invested, a smaller depreciation annuity to be set aside, year by year, and a smaller amount necessary to meet maintenance and operating expenses, the Southern Company will be able to give to the people of Los Angeles and vicinity a unified telephone service at rates lower than those which would be necessary under a condition of interchange, and that under a condition of consolidation the Southern Company will be able to give to the people of Los Angeles good telephone service without increasing the present rates.

And further, in answer to the suggestion that competition had proved the best incentive to good service and that with consolidation such competition would be eliminated, the Commission said (page 858):

> In the present instance, the evidence shows that if the consolidation is effected, the people of Los Angeles and vicinity will immediately save the sum of $483,000 per year from the elimination of duplicate telephone stations. They will be relieved from the nuisance of a dual telephone system. Their rates will not exceed those which they have heretofore enjoyed under a condition of competition. The consolidated telephone company, receiving the entire gross revenue from telephone service within the area affected without corresponding increase in maintenance and operating expenses, will be a stronger company financially than either of the existing companies in so far as their operations within this area are concerned, and ought to be better able to borrow new moneys on favorable terms, to accord reasonable rates to its customers, and to make such extensions of service as the interests of the public may require.

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In view of these immediate, substantial benefits to accrue to the public from the consolidation, we do not feel warranted in denying these benefits to the public merely because hereafter the consolidated company may possibly become remiss in its duty to the public. We prefer to believe that under the present supervision and regulation of telephone companies by the state, the state will be strong enough to secure good service, even from a telephone monopoly, in case such monopoly should, blind to its own interest, revert to the conditions of the past.

The Commission granted the petition for consolidation subject to certain conditions. Capital stock and bonds not exceeding a par value of $14,000,000 (as compared with $16,098,500 applied for) were authorized to be issued by the company and of this amount the bonds were not to exceed in par value the sum of $9,330,000 (as compared with $9,927,000 applied for). The condition requiring a stipulation that no increase in rates should be asked for for a period of five (5) years has already been referred to. Permission was made conditional upon absolute impartiality as between automatic and manual stations, according to the wish of the subscriber; similiarly, the choice of the subscriber was to control as to the use of the toll lines of the various long distance lines; that the company would retain its principal office in the city of Los Angeles; that no franchise value should ever be claimed in any proceeding before this Commission, in court, or other public authority, in excess of the sums actually paid for such franchises; and certain other conditions insuring good service.

It would appear in the light of events subsequent to 1916 that the consolidation was of great benefit to the telephone users of Los Angeles and to the Pacific Company and we believe this to be true, as far as the company is concerned, notwithstanding the fact that the war and conditions resulting from the war have laid financial burdens on this company which, in some respects, have been more onerous than other telephone companies have had to contend with.

2. Investment, Valuation, Rate Base.

We do not believe, in view of the facts in the case, that the matter of a rate base is a controlling factor in the fixing of the rates of this utility at this time. If, with reasonable rates from the standpoint of the service rendered and compared with rates for reasonably similar service in other cities, this applicant can earn a fair return after operating expenses upon a reasonable rate base for its property used and useful in the public service, we should not hesitate to fix such rates. On the other hand, if, in order to secure a theoretically fair return on a theoretical rate base, an unreasonable charge in the form of abnormally high telephone rates had to be laid on the Los Angeles telephone users, we are of the opinion that such a procedure would result in unjust and unreasonable rates and in a burden the subscribers should not be asked to bear. We must remember, as indicated above, that the

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competitive conditions of the past made impossible a profitable operation of the Pacific Company's Los Angeles business. At the time of consolidation in 1916, there were over 60,000 telephone stations on the Home Company's plant and over 68,000 on the Pacific Company's plant, and a large proportion of these were duplicate stations. The great majority of these duplicate stations disappeared with the progress of consolidation. This meant an inevitable loss in revenue. There was also some decrease in operating expenses, but not proportionate to the decrease in gross income. There was a considerable amount of duplicate plant other than duplicate subscribers' equipment and it is in the record that the extraordinary expenses incident to consolidation were large and have extended to the present day, with the end not yet. These conditions clearly were and are the aftermath of the period of competition and it would be unreasonable to place these costs and losses entirely upon the present subscribers. This would be the more unjustifiable since another unavoidable consequence of past competitive systems and thoroughgoing unification is unsatisfactory service during the period of transition. Such unsatisfactory service the city of Los Angeles has had to bear and is still bearing.

While, therefore, in our opinion, a rate base is not an essential factor in this proceeding, we shall, nevertheless, briefly review the evidence on that item and indicate our conclusions.

There is not available to the Commission an exact inventory of the operative physical property of the company as of the present time, but it was agreed by the Engineering Conference that the delay and expense incident to the making of such an inventory is not warranted for the purposes of this proceeding and that the valuations made in the consolidation proceeding could be brought to date and used in this case.

The following valuation estimates are in evidence:

By the company (as of October 31, 1921):	
(a) Reproduction cost new of property at September 30, 1920, prices, plus net additions	$47,720,000 00
(b) Reproduction cost new of property (Exhibit No. 24)	39,278,100 00
(c) Reproduction cost new of property less depreciation (Exhibit No. 24)	36,089,000 00
(d) Fair value of property plus net additions	30,700,000 00
(e) Actual performance appraisal of plant and working assets (Exhibit No. 25)	24,050,256 00
By the city:	
(f) Maximum rate base 1920 (page 27, Exhibit "A," Engineering Conference)	$15,071,684 00
(g) Rate base for end of 1921 (Board of Public Utilities City of Los Angeles, Exhibit "B")	17,250,032 00
By the Commission's engineering department:	
(h) Rate base as of March 31, 1921 (Exhibit "A," Engineering Conference, page 45)	$16,520,000 00

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The Engineering Conference points out that the rate base figures as of March 31, 1921, should be brought to a later date and that there should be added materials and supplies, employees' working funds, and other working capital to the extent that current cash receipts do not take care of current cash expenditures. We shall deal with the question to what extent expenditures not yet made shall be considered in fixing present rates under another heading in this opinion.

(i) Engineering department's rate base, 1922, on basis of 170,300 stations (19,000 additional stations over March 31, 1921), including materials and supplies, employees' working funds and additional capital required $23,800,000 00

It is apparent that these valuation figures differ within very wide limits. The difference is in part accounted for by the fact that differing dates are used for the estimates. The important reasons for the wide discrepancies, however, are to be found in the differing methods of valuations and in the variety of facts and principles used by the several witnesses. It should also be stated that the figure under (i) is based, in point of time, on the year 1922 and that to bring the preceding figures from (a) to (h), inclusive, to the same base, all of them would have to be increased by a large amount (Exhibit "A" Engineering Conference, page 70).

The company does not claim, however, that its figures under (a), (b) and (c) should be taken by the Commission as a proper rate base. They are given merely as indicative of certain measures of value and of results obtained with certain valuation methods. The fourth valuation figure, (d), is stated by the company (Exhibit No. 26) to be "the minimum fair value or present worth," while the fifth figure, (e), is termed "an actual performance appraisal" by the company and it is argued that a lower figure can not be given consideration by the Commission in a rate case.

It may here be noted that all of the valuation figures shown above (and others in addition) were thoroughly analyzed by the engineers of the company, the city, and the Commission, in the Engineering Conference above referred to and in Exhibit "A," the report of that conference to the Commission. The Commission is thoroughly aware, therefore, of the significance of these various figures from the standpoints of the several interests. It is pointed out by the Commission's chief engineer in Conference Exhibit "A" (page 36) that figure (d) includes all intangibles such as the value of the business, prospective earnings under assumed rates, etc., and that the figure, on the face of it, is not intended to be a rate base but rather an estimate of what this property as a going concern would be worth under rates giving an adequate return upon this estimated "present worth." It is further

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pointed out that since it is the rates which are at issue in this proceeding, this figure can have no direct relation to a rate base.

With reference to figure (e), ("actual performance value"), the chief engineer points out that this figure, as that term is used by the Pacific Company, is a reproduction cost estimate of existing property on the basis of labor and material costs incurred over a limited period of time on a portion of the property under operating conditions. And he states that this method of valuation does not provide for a check of the reasonableness or unreasonableness of costs and accepts whatever costs were actually incurred by the company, regardless of whether they be normal, too high, or too low. This statement appears on page 37 of Conference Exhibit "A":

> The engineering department (of the Commission) has never been able to agree that a so-called actual performance appraisal, depreciated or undepreciated, is a reliable index either to a rate base or to "value." It is our contention that, in order to determine the reasonableness of so-called actual performance figures, it is necessary to test them against investment or historical reproduction cost incurred not under operating conditions but *under construction conditions* during a reasonable construction period.

Since the company, as also the Pacific Company, appears to put great weight upon this particular method of valuation for purposes of rate proceedings, it is pertinent to say that, in our opinion, the objections in the preceding quotation appear valid and that we should be unwilling to rely on such a valuation estimate to the exclusion of any other. We make this statement in this place because the so-called actual performance figures were passed upon, in a measure, by this Commission in the decision in the consolidation case heretofore referred to. The Commission did not then approve the so-called actual performance method of valuation and we see no reason for a different conclusion.

The city, in its Exhibit "A," objects to all of the company's valuation figures. Its principal objections may be summarized as follows: the reproduction estimates are based on an improbable reproduction scheme; no account is taken of duplication; the condition per cent given is not satisfactory; intangible values are excessive; cost of additions is based on noncompetitive tabulation of probable current costs; no account is taken of actual per cent condition of property; performance value is based on at least one valuation not approved by Commission in the consolidation proceedings; no deduction is made for depreciation in performance estimate. The city asks for a recheck of all quantities and the application of new unit costs approximating historical costs. It also requests a redetermination of condition per cent. The principal point of objection by the city to both the company's and the Commission's engineering department's valuation

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estimates is with reference to the treatment of the depreciation reserve in the valuation and in the rate base. The city insists that the depreciation reserve accumulated by the company is too high and that that portion which has been invested in plant should be deducted from the rate base. This matter will be discussed under another heading and it is sufficient to state here that in the city's figures above, both under (f) and under (g), there is deducted from the otherwise "maximum rate base" the sum of $4,181,327, this being the amount of the depreciation reserve invested in plant. The city's figures are based on the valuations made by the Commission's engineers in the consolidation case, after making allowance for duplicate plant and with net additions between December 31, 1915, and March 31, 1921. In item (g) the net additions have been estimated to the end of the year 1921.

The engineering department's figure under (h) is reached after an analysis of the valuation figures, and of the portion dealing with the securities to be issued, in Decision No. 3845 above referred to. It is concluded that the Commission, when consolidation was permitted, took as the best measure of value the historical reproduction cost depreciated and that this amount should, therefore, be taken as the figure representing most nearly the rate base on the day consolidation occurred. The correctness of this figure as a theoretical rate base is suggested because the new company, on consolidation, took over all of the assets and liabilities of the two old companies, including the reserve for accrued depreciation. To this December 31, 1915, figure the engineering department has added the net additions, undepreciated, to March 31, 1921, and this is the figure shown under (h) and designated as the theoretical rate base.

The term theoretical rate base is used by the Commission's chief engineer because it is pointed out that the figures shown under (h) and (i) do not reflect the "value," as the term is ordinarily used, of this property. This is because of the effect of the factor of earning power. This factor is discussed in the engineering department's memorandum (Conference Exhibit "A," page 46) as follows:

Earning Power:

The figure of $16,520,000 does not in any sense indicate the present-day "value" of this property in the sense that the term value is used in the estimate of the company's president, for instance. It is acknowledged that the value of public utility property is made up of two principal elements: first, the plant necessary to produce the service; second, the earning power of the plant. When measured by this universally recognized standard, then the present value of this property is very much less than the figure shown above. This is true because it is now earning, and has been earning, since its existence under consolidation, a very low return, and a return which is below the cost of money. Furthermore, the profits from the business have become smaller and, in 1920, according to the company's annual report, there was

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a profit, after operating expense, depreciation, taxes and rents, of only $108,406 (this sum was available for the payment of interest, sinking funds, amortization and surplus. The interest charges, accrued for that year, amounted to approximately $429,000). For each year since January 1, 1917, the gross income was as follows (gross income is the amount available for interest, other fixed charges, dividends and surplus, after the payment of operating expenses, including depreciation and taxes):

Year ending December 31, 1917	$656,674 00
Year ending December 31, 1918	266,922 00
Year ending December 31, 1919	101,696 00
Year ending December 31, 1920	131,460 00

(NOTE.—These figures are subject to some modification because of intervening federal control.)

If, therefore, the past and present earning power of the property were taken as one factor of "value" and of "rate base," as appears to be argued by the company, then it is apparent that to whatever extent that factor is taken into consideration, it must operate as reducing the figure found for the plant alone.

The present instance affords a perfect example of the unavoidable reasoning in a circle, if it is claimed that rates must be based on "value" and that "value" must reflect both plant and earning power. Under such a theory it is apparent in this case that with the existing rates the value, and, therefore, the rate base, of this property is much lower than any investment or valuation figure, and to whatever extent the Commission increases the rates, it would, of a necessity, increase the earning power and, therefore, the "value" and, therefore, the "rate base."

Neither can it be said that the factor of earning power had a different influence prior to consolidation. It is in the record in Application 2227, heretofore referred to, that both predecessors of the present company carried on an unprofitable business for a number of years prior to 1916 and probably since the year 1903, when competitive telephone service developed in Los Angeles. It is equally true that, under competitive conditions, these losses would have continued if consolidation had not been brought about and permitted by this Commission.

The Engineering Conference is agreed that the factor of past, present, and prospective earning power is a negative quantity in this property and would result in a further reduction of the figure of $16,520,000 found above. It is also agreed that a capitalization of a *prospective* rate increase by the Commission would be unsound and unreasonable and that such capitalization should not be permitted in any degree to affect the rate base to be found in this proceeding.

A careful consideration of the facts dealt with under this heading justifies, we believe, the designation "theoretical rate base" to any rate base figure that has been estimated by the company's, the city's, or the Commission's engineers. We believe a distinction must be made between a rate base on which it has been possible to earn a fair return in the past, under rates fair to the public, and a rate base on which a full fair return has not been and can not at the present time be earned under such rates. Considering the earning possibilities of this property during the time prior to the consolidation and to the five years subsequent thereto, it is not possible to speak of any but a theoretical rate base.

We shall indicate under a later heading what rate of return this applicant may be expected to earn on one or several capital figures, under rates fair and reasonable alike to the company and to the subscribers, after operating expenses and reasonable allowance for depreciation and proper allowances for taxes and other items have been provided for.

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3. Duplication of Property.

The city maintains that the company's present telephone plant is still burdened with a considerable amount of duplicated property, resulting from the consolidation of two competing systems and that the amount of such duplicated cost should be eliminated both as it affects the rate base and operating expenses. It is suggested by the city that the only accurate way of determining such duplication is by means of a careful field study. The company, on the other hand, points out that the chief item of duplication was in the two telephones that many people had been under the necessity of installing prior to consolidation. All these duplications were subsequently removed, with the result that facilities were made available for additional business. It is also pointed out by the company that the additions to the plant made since the date of consolidation (May 1, 1917) represent a very large proportion of the existing plant and cannot be considered, in any sense, as having duplication included. In the company's opinion there is no duplication existing in the operative property at this time.

We are satisfied that the effects of the existence, five years ago, of two separate telephone plants of practically equal importance are still present to some extent. The Commission's engineers point out that there still, of necessity, exists duplication in the matter of poles, right of way, easements, cable, conduit trenches, and central offices, and other items. This duplication must have its effect on the cost of the plant as well as on the cost of operation. We are not persuaded, however, that the loss resulting from this condition should be borne by the company in its entirety. The public has benefited, to some extent at least, by the existence of this duplication. The spare plant made available by the disconnecting of 15,000 duplicate stations made possible the taking care of a considerable number of new telephone applications under the abnormal material and financial conditions prevailing in 1918 and 1919. It is also a fact that the combined service of the two former systems has been delivered to all subscribers at the rates in effect when the business was divided between two competing concerns. We reach the conclusion that, from the standpoint of the rate base, the duplication reflected in the engineering department's figures under (h) and (i) in the preceding heading is fair and reasonable to the Company and to the public alike, and we shall not make a further deduction on that account under operating expenses.

4. Operating Costs and Other Expenses and Charges, and Estimated Revenue.

It is our purpose to fix rates in this proceeding which will allow the company reasonable operating expenses, including a proper allowance for depreciation and taxes, reasonable compensation to affiliated

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companies for service rendered or value received and, in addition, a reasonable fair return, having in mind the essential conditions surrounding this utility.

A careful estimate of operating expenses necessary to the company was worked up by the Engineering Conference. On a number of such expense items there is agreement; on other items the differences of opinion and the reasons therefor have been presented to us by the several engineers. We shall summarize the agreed items and then briefly discuss the items in dispute. The estimate of operating expenses for the year 1922, based on current expenses plus estimated increases and figured as average unit costs per station, and taking the average number of stations for the year 1922 as 170,310, is as follows:

	Unit per station per month	Total per year
1 Ordinary repairs	.860	$1,757,599 00
2 Station removals and changes	.140	286,121 00
3. Traffic expenses	1.200	2,452,464 00
4. Commercial expenses	.475	970,767 00
5 General expenses	.085	173,716 00
6 Rent deductions		30,000 00
7 Amortization of landed capital		2,500 00
8 Taxes		480,000 00
Sub-totals	2.760	$6,153,167 00

The amounts shown opposite items 1 to 8 above are reasonable estimates of the actual amount of expenses that will have to be met during the year 1922, regardless of whether these amounts may be considered as normal or abnormal. It is the city's position, however, that operating conditions, and therefore operating expenses, cannot be considered as normal at the present time nor in 1922. The city urges the use of average figures over a number of years, properly adjusted to allow for unusual conditions obtaining by reason of existing duplication, delayed installations and the present period of unusually heavy construction. Because of these considerations, the city contends for a general reduction of operating expense items and particularly for a 10 per cent reduction in items 1 and 2.

We have already stated our views with reference to duplication. With reference to abnormal construction conditions, and the situation resulting from delayed installations we believe that, as to the former item, the actual operating costs should be allowed unless there is evidence that with more efficient management and operation such costs can be reduced. No evidence to that effect is before the Commission in this proceeding. The matter of delayed installations will have attention in the consideration of the quality of the service rendered

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by the company and its effect upon the rates. We can also not be unmindful of the fact that the unprecedented growth of the city of Los Angeles, in building activity and population, and in expansion of all sorts of business enterprises, has created an equally unprecedented demand for telephones. We see no indications justifying a belief that this growth will be retarded or come to a pause in the future. On the contrary, in our judgment, the indications are that this remarkable development will continue and the conditions which have been designated as abnormal in this proceeding may, for some considerable time to come, prove the normal condition of Los Angeles. Holding to this conclusion, we see no justification for a percentage reduction in the operating expenses shown above on account of their being abnormally high.

On other expense items there are material differences and it will be necessary to analyze the most important ones in some detail.

Depreciation.

We consider the matter of depreciation of great importance. The company for the year 1922 claims a depreciation allowance under operating expenses of $1,428,000. The allowance estimated by the Commission's engineering department for the same year is $730,000 and the city urges as a sufficient allowance the sum of $610,000. It will be well to state the bases for these three figures. The company figures its depreciation allowance for plant and equipment on the so-called straight line method and on the book amount of depreciable property for the average of the year 1922 ($23,800,000). To the cost shown on the company's books on September 30, 1921, there is added the estimated net additions for the balance of 1921 and half of 1922. An exhaustive statement has been filed with the Commission by the company showing its position on the matter of depreciation. It is difficult to summarize this extensive presentation. It may be stated, however, that, on the whole, it is based principally on accounting considerations and on the classification of accounts prescribed by the Interstate Commerce Commission and by this Commission. The company maintains that in maintenance expenses it is entitled to a depreciation allowance for all losses suffered through the current lessening in value of tangible property from wear and tear not covered by current repairs. This includes obsolescence and inadequacy resulting from age, physical change, or supersession by reason of new inventions and discoveries, changes in popular demand, or public requirements, and losses suffered through destruction of property by extraordinary casualties. Under this accounting definition the experience, over a number of years, of the associated Bell telephone companies through-

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out the United States with particular reference, perhaps, to the experience of the Pacific Company, is used and the percentages thus obtained for the various classes of property are applied to the property of the applicant. An inspection of applicant's annual reports filed with this Commission shows, however, that the depreciation rates have changed from time to time and that, during the period of federal control, the provisions of the federal control superseded the company's practices. The company and the Pacific Company both recognize the fact that, of necessity, and in the nature of things, any depreciation allowance must partake of the speculative and that the amount in the reserve can not, at any time, measure the actual physical depreciation and, conversely the physical depreciation, at a given time, can not measure the amount which should be in the reserve. This must be so because the present physical condition of any property is a physical fact. The amount which must go into the reserve is necessarily, to certain extent, based on hypothesis, because this reserve must provide for facts and contingencies which have not yet occurred and which lie in the future.

The company takes the position that under the accounting rules it is compelled to set aside its depreciation reserve in equal periodical installments on the straight line method and that to use a sinking fund depreciation annuity would be unlawful. It maintains that the rates fixed by it, the amounts proposed to be set aside in this proceeding and the methods adopted by it for the accumulation and use of the reserve must not be interfered with and that at least the sum of $1,428,000 is required to enable it to render efficient service. It may be stated that the method used by the company results in a rate very closely approximating 6 per cent per annum on the total depreciable property.

The city's estimate of an adequate depreciation allowance is in radical disagreement with the company's method. The city contends that the rate of approximately 6 per cent is entirely too great for the reason, mainly, that the life of the various components of the property, as submitted by the company, is entirely too short. In the city's opinion the company has, with regard to life, to obsolescence, to inadequacy and to salvage, made assumptions as impracticable and unsound as the theory of reproduction cost new submitted by the company.

According to the city's contention the $610,000 per annum, estimated by it as a depreciation annuity, is the maximum and set aside on a sinking fund basis at a 7 per cent rate of interest in monthly installments will amply take care of the retirement of all of the depreciable property at the end of its life.

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The theory on which the city bases its argument can best be indicated by a quotation from the statement of the chief engineer of the Board of Public Utilities (Conference Exhibit A, page 99):

The city is of the opinion that the purpose of a reserve fund is for the replacement of worn out plant and is a guarantee that the original investment will be maintained. It takes the position also that the money set aside for this purpose should be placed in a separate fund as provided for in California Statute, section 49, Public Utilities Act. The interest on this separate fund should be calculated at the prevailing rate and set aside and made a part of the fund. This the company does not do at the present time. The city contends that while the reserve fund for replacement belongs to the property, it is for just one purpose, namely, the replacement of worn-out property, and it was taken out of the rates paid by the subscribers for that purpose only.

As conditions are at the present time, the subscribers have absolutely no protection against the neglect on the part of the company to replace old and worn out, inadequate equipment; they have no protection against the lack of service resulting from a failure to replace inefficient equipment. In other words, the condition per cent of the Southern California Telephone Company is an unknown quantity. We do not admit for one moment that the condition per cent of the property has nothing to do with the service rendered by the company, or with the matter of rates.

We can not agree that the reserve fund may be used by the company for any purpose whatever which the company may find convenient. It would seem to us that the only guarantee of good faith in the expenditure of the money set aside for a particular purpose and included in the rates for that purpose, is that the Commission should have charge both of the debits and credits to the depreciation reserve fund.

We contend that the Commission should be the judge of obsolescence whenever a radical change is proposed. We do not contend that either obsolescence or inadequacy should be borne entirely by the rate payer.

The statement that the government allowed the company 5.72 per cent for the depreciation fund is absolutely immaterial. It is extremely doubtful whether any estimate was ever made during war times on what the rate of depreciation should be. We would need to be shown that the government was not influenced by engineers of the American Telephone and Telegraph Company in arriving at this rate of 5.72 per cent.

The city contends that no one can prophesy the exact amount necessary for the replacement of property or keeping intact the original investment. We contend that a reasonable amount over and above the actual current replacements to take care of emergency withdrawals should be set aside annually and placed in a separate fund, together with the interest thereon and the fund put under the supervision of the California Railroad Commission, and used for the only purpose for which it was ever taken out of the rates—namely, the replacement of worn out plant, and keeping the original investment intact. Should it become necessary at any time, in the opinion of the Commission, to increase the annual allowances for depreciation or should the fund accumulate too rapidly to take care of current replacements, then the Commission can increase or reduce the annual payments. By this method there will be no tendency to neglect replacements and use the money for some other purpose.

It is also the position of the city, as indicated under a previous heading, that on the portion of the depreciation reserve invested in plant the company is not entitled to a return and that the amount so invested should be deducted from the rate base.

The Commission's engineering department has also made a report on this item and its estimate is contained in Conference Exhibit A (page 103).

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It is the conclusion of the department that the depreciation allowance included in operating expenses by the company in the past and estimated for the future, is too high and that the estimate for this item as submitted by the company in this proceeding should be materially reduced. Our engineers report that neither they, nor the company's engineers, nor the city's engineers have made the detailed analysis necessary to determine an accurate depreciation allowance for this particular property. Such an analysis would require a list of property inventory items in the various accounts, a determination of lives and salvage value, a distinction between depreciable and non-depreciable property and between such items as should be renewed through ordinary maintenance expense and such as should be replaced out of a depreciation fund. It is the department's conclusion, however, that an approximate figure sufficiently accurate and fair for the purposes of this case can be found on the basis indicated in the Conference report for the estimated figure of $730,000. This allowance, according to our engineers, should be subject to further modification by reason of the excessive reserves set aside in the past and by reason of the fact that the earnings of the depreciation fund have not been added to the fund but reinvested in plant, the ownership of which is now in the company and included in the department's rate base. According to our engineers' figures the reserve estimated by the company for 1921 is from 43 to 48 per cent too high, depending upon whether the 6 or 7 per cent sinking fund rate is used and the same percentage approximately applies to the depreciation allowances set aside by the company since consolidation.

It appears that the total amount set aside by the company between May 1, 1917, and June 30, 1921, is $4,129,474, and it is estimated that in this period there has been going into the depreciation reserve an excess amount of $1,651,790.

In Applicant's Exhibit No. 30 (which is the reply memorandum to Exhibit B of the city of Los Angeles) counsel for the company reviews the position of the city, and to some extent the statements of the Commission's engineering department on this matter, and calls attention to certain errors in computation and to certain other matters that are not conceded to be errors by the city and by our engineers. The company in its Exhibit 30 restates its position and relies for the soundness of its conclusions principally upon the prescribed accounting classifications. It suggests that the matter of depreciation is outside the jurisdiction of this Commission and that there is nothing for us to do but to accept the company's methods and practices and to allow the amount they claim under this item. This view is taken because the

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company contends that the Interstate Commerce Commission has sole control of this matter.

We are of a different opinion and the question of jurisdiction we do not believe to be at issue. The amount to take care of depreciation is one of the largest, if not the largest, single item in the total sum that must be provided for the company in rates. We believe that this Commission, being the rate-making body, has not only the right but the duty to scrutinize this expense item most carefully and to include it in the total sum of money to be provided for in an amount reasonable alike to the subscribers and to the Company. The Public Utilities Act clearly places this function upon the Commission and section 49 of the act reads in part as follows:

> * * * The Commission may, from time to time, ascertain and determine and by order fix the proper and adequate rates of depreciation of the several classes of property of each public utility. Each public utility shall conform its depreciation accounts to the rates so ascertained, determined and fixed, and shall set aside the money so provided for out of earnings and carry the same in a depreciation fund and expend such fund only for such purpose and under such rules and regulations both as to original expenditure and subsequent replacement as the Commission may prescribe. The income from investments of moneys in such fund shall likewise be carried in such fund.

From all the evidence on this point we conclude that the sum to be allowed as an operating expense for a depreciation annuity should be $780,000 per year. Set aside in monthly installments of $65,000 in a sinking fund, with provision that the earnings accruing are added to the fund, this amount will retire, compounded at the ordinary interest rate of 6 per cent, the total depreciable property within a reasonable life expectancy. There can be no question, in our opinion, about the adequacy of an allowance that will accomplish this end.

Our view of this matter does not go to the mere accounting considerations and is much more far reaching. This Commission has constantly held to the view that a proper depreciation annuity is an operating expense and must be allowed for the same reasons that proper maintenance expenses must be contributed by the rate-payers. We make such a depreciation allowance not merely in the interest of the public utility and in order to enable it to keep up its plant, but, more important, in order to assure the public of the permanency of good service. The depreciation allowance, therefore, is a contribution the public is making to the utility in order to insure a continuation of service through the renewal of plant worn out in the service to the public.

If the company concludes to include more than $780,000 in operating expenses for depreciation, the excess must come out of the allowance for a fair return. In our opinion the amount claimed by the company is excessive and the amount allowed by us, determined as it is for this

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particular plant at this particular time, is reasonable in view of all circumstances.

We are aware of the fact that the Interstate Commerce Commission is now engaged in an investigation of the subject of depreciation as it relates to interstate telephone utilities and understand that there is a likelihood of that Commission establishing depreciation percentages for the various items of property. Whether such percentage rates, if any are to be fixed, will be intended to apply to all interstate telephone systems throughout the United States or whether percentages will be determined according to the facts and necessities in a particular territory, and of a particular company, we do not know. The Pacific Company, which is particularly interested in this matter, by reason of its stock ownership in the Southern Company, is an interstate company, while the latter company is engaged in a purely intrastate business. In view of the present status of the matter, we prefer not to direct a change in the percentages employed by the company in setting up on its books the depreciation accruing in each class of its depreciable property. We shall not allow in operating expenses for depreciation any sum larger than the amount above indicated. We hold to the view that the proper amount to be set aside for a particular property can not be determined by rule of thumb, or by use of general percentages applying over a territory as large as the United States, and under conditions as varied as they are found in the large number of separate telephone utilities. Each property, we believe, must be governed by its own particular circumstances and requirements, and the local rate-making body seems to be in the best position to consider and determine the amounts which properly should be set aside for depreciation.

Payments to the American Telephone and Telegraph Company.

In its estimate of expenses the company claims for this item under the designation "licensee revenue" the annual amount of $217,000. The city's and the Commission's engineering department's allowance is smaller and amounts to $120,000 a year. The engineering department's figure is based on the conclusion that, regardless of the method of computation, this amount is a reasonable payment for services rendered by the American Company to the Southern Company in view of all circumstances surrounding the plant at this time and that will surround it in the next few years. The company's figure is based on an agreement now in existence between the Pacific Company and the Southern Company, and particularly on section 6 of that agreement regarding license contract payments on a gross earning basis. This item, therefore, goes to the matter of the relation between this company, the Pacific Company, the American Company, and other affiil-

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iated or subsidiary corporations. An inquiry into this relation was one of the subjects assigned to the Engineering Conference. The conference has exhaustively reported on this point and there are before the Commission the views of applicant and of the Pacific Company, as also the views of the city and of our engineers. We shall briefly deal with this matter under another heading. It is sufficient to say at this point that, after a careful consideration of the entire record, we are satisfied that the inclusion of $120,000 in the expense estimate is a reasonable amount for the services rendered by the American Company to applicant.

Uncollectible Revenue.

The amount for revenue which the company will be unable to collect and which, therefore, must be a charge upon the general business, is estimated by the Engineering Conference at one-half of one per cent of the estimated gross revenue. We are willing to accept this estimate and are making an allowance for this item of $41,000.

Summarizing the foregoing items, we have a total expense estimated for 1922, exclusive of fair return, as follows:

Operating expense items 1 to 8, inclusive (as enumerated above)	$6,153,500 00
9. Annual amount to be put into depreciation fund	780,000 00
10. Payment to American Telephone and Telegraph company	120,000 00
11. Uncollectible revenue	41,000 00
Total	$7,094,500 00

The rate schedule we are proposing is estimated by the engineers to produce a gross revenue in 1922 of $8,300,000. We wish to call attention to the percentage growth in the company's revenues during the last three years. It appears that the 1920 revenues showed an increase over the year 1919 of approximately 16 per cent and the 1921 revenues over those for 1920, in spite of delayed installations, are likely to show an increase of at least 14 per cent. The estimate of the Commission's telephone engineer for the year 1922 (under present rates) shows an increase, however, of only about 9 per cent. The gross revenue estimate derived from the rate schedule suggested in this decision is based on the same approximate percentage increase in business as is the estimate assuming a continuance of the present rates. We are inclined to believe that the business of the company in 1922 will show an increase closely proportionate to the one of the preceding year. If this view is correct, there is an underestimate in the engineers' revenue figure for 1922 rather than an overestimate.

The rate base we have in mind is the sum of $23,800,000. This sum includes the estimated capital expenditures necessary to take care of the 1922 business and these new capital expenditures (partly made and partly not yet made) amount to $6,738,000. We are aware that, to a

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considerable extent, the rebuilding of the Los Angeles plant is now going on and has been going on for some time. Unquestionably a portion of the capital expended is not only useful for the stations to be immediately attached to the present system, but will be useful for additional future business. Good telephone engineering demands the design and construction of the plant in such manner.

The Engineering Conference agreed that there should go into the rate base such cost of new construction as is required for the needs of the estimated number of stations plus a reasonable margin for spare facilities, and company maintains that the full amount of $6,738,000 does not provide for anything in excess of such needs.

With an estimated revenue of $8,300,000, and total estimated expenses of $7,094,000, there remains a net return of $1,206,000. This is approximately 5.1 per cent on the estimated rate base and falls short by $222,000 of a 6 per cent return. In our opinion the company will earn a 6 per cent return on this rate base since we are satisfied that the estimates of earnings are unduly conservative. We consider such a return as reasonable and entirely fair to the company in view of all the circumstances in this case.

While this Commission has repeatedly pointed out that the volume and the classes of outstanding securities can not be controlling in the determination of a just and reasonable rate, we wish to point out that the fair return as estimated above will be sufficient to provide for all of this company's interest on outstanding bonds, allow for interest payments for all borrowed money and for additional money that will have to be borrowed in order to carry out the 1922 program, and in addition leave a substantial surplus. This, it appears to us, must be considered a gratifying financial situation as compared with the condition prior to consolidation and as it would have been had consolidation not been permitted.

Reference should be made in this connection to the matter of the *apportionment of toll revenues and expenses* between the exchange company and the toll company. The city contends that the present 30 per cent revenue apportionment to the company is insufficient and that at least 40 per cent of the toll revenue should be credited to the Los Angeles exchange. If an increase were made, the gross revenue of the company would, of course, be increased, the net revenues would be increased in the same amount and the percentage of fair return would increase accordingly.

We have given careful consideration to this matter. It may be that upon a close analysis the applicant may be entitled to receive a larger proportion of the toll revenue than it receives at present, but no data is before the Commission at this time that would permit of a fair deter-

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mination of the question. A reapportionment of toll revenue, it is also apparent, would take this revenue away from one branch of the Pacific Company's business and give it to another, and in this manner would have an effect on other telephone rate structures which are not now at issue. In our opinion it seems desirable to let this matter rest until a state-wide determination can be made.

5. Rate Area.

The company submitted exhibits showing a proposed primary rate area. This proposal was objected to by the city and the item was one of the matters referred to the Engineering Conference. It appears that the primary rate area is substantially agreed upon by the conference with one material exception. As recommended by the Commission's telephone engineer and accepted by the conference, the company's proposal is modified by the exclusion from the area of a small neck of territory along Verdugo road, east of Tropico, and the extension of the area to include a district in the southern part of the city, bounded by Florence avenue on the north, Mountain View avenue on the east, Manchester avenue on the south and Central avenue on the west. We believe the company should adopt this rate area and the exchange rates fixed in this decision should apply within this territory.

It is the city's contention that the so-called Palms-Culver district should be included within the primary rate area. The Commission has decided this matter in Decision No. 9516 and the only point left open at this time is the location of the Los Angeles primary rate area boundary closer to the Palms-Culver city boundary, or further away from that boundary, compared with the present location. The rate area here suggested extends the present boundary; that is to say, a larger territory will be available to the Los Angeles exchange rates than is at present the case. A reversal of Decision No. 9516 does not appear justified.

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6. Rates.

The rate structure proposed by the company in this application compares with the present rate structure as follows:

Class of service	Present rates		Proposed rates	
	Wall	Desk	Wall	Desk
One-party business, flat	$6 25	$6 75	$12 00	$12 25
One-party business, measured	5 50	6 00	----------	----------
[1]One-party business, prepayment	5 50	6 00	6 00	6 25
Two-party business, flat	4 75	5 25	9 00	9 25
Business extensions	1 00	1 00	1 00	1 00
Business suburban	3 00	3 00	3 50	3 75
One-party residence	2 50	2 75	4 25	4 50
Two-party residence, flat	2 25	2 50	3 50	3 75
Four-party residence, flat	1 75	2 00	2 75	3 00
Residence extensions	1 00	1 00	1 00	1 00
Business P. B. X., flat	----------	----------	----------	----------
Switchboards—				
Cordless	3 00	----------	5 00	----------
Commercial cord	3 00	----------	----------	----------
Non-multiple	----------	----------	[2]5 00	----------
Multiple	----------	----------	[2]10 00	----------
Hotel, flat	2 00	----------	----------	----------
Non-multiple	----------	----------	[2]5 00	----------
Multiple	----------	----------	[2]10 00	----------
Stations—				
Commercial	1 00	----------	1 00	----------
Hotel—				
Not in guest room	1 00	----------	1 00	----------
In guest room	35	----------	50	75
Intercommunicating	1 00	----------	1 00	----------
Switching keys, 10 lines	25	----------	50	----------
Switching keys, 20 lines	50	----------	75	----------
Switching keys, 30 lines	75	----------	1 00	----------
Trunks, first B. W.	8 00	----------	----------	----------
Trunks, additional B. W.	7 00	----------	----------	----------
Trunks, outgoing	6 00	----------	18 00	----------
Trunks, incoming	5 00	----------	6 00	----------

[1]Under present rates appears under section 3 of tariff.
[2]Up to 80 lines.

We are satisfied that the proposed rates are too high and would be unfair and unreasonable to the subscribers. We suggest the following rate structure and believe that with these suggested rates in effect there will be produced the gross revenue previously estimated and that this income will enable the company to give good and adequate service and to take care of the future telephone requirements of Los Angeles.

PROPOSED RATE STRUCTURE.

Business Service.

	Rate per month	
	Wall set	Desk set
Individual line, unlimited service	$9 00	$9 25
Two-party line, unlimited service	7 00	7 25
Suburban, ten-party line, unlimited service	3 50	3 75
Individual line, coin box service. Guarantee, 20 cents per day; each exchange message, 5 cents.		
Extension, with or without bell	1 00	1 00

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Residence Service.	Rate per month Wall set	Desk set
Individual line, unlimited service	$3 75	$4 00
Two-party line, unlimited service	3 00	3 25
Four-party line, unlimited service	2 25	2 50
Suburban, ten-party line, unlimited service	3 00	3 25
Extension, with or without bell	1 00	1 00

Private Branch Exchange Service.

Business, commercial, unlimited service, switchboard, with battery power ringing circuit, and switchboard telephone for each position.	
Cordless, each position	$5 00 per month
Cord, non-multiple, each position	5 00 per month
Cord, multiple, each position	10 00 per month
Each station, primary or extension, wall or desk set	1 00 per month
First both-way trunk line	11 00 per month
Each additional both-way trunk line	8 25 per month
Each outgoing trunk line	9 00 per month
Each incoming trunk line	6 00 per month
Each two-position order table equipped with two complete telephone sets	4 00 per month
Each line from the order table to the private branch exchange switchboard	1 00 per month

Hotel, Private Branch Exchange—Unlimited Service.

Switchboard, with battery power ringing circuit, and switchboard telephone for each position.	
Cord, non-multiple, each position	$5 00 per month
Cord, multiple, each position	10 00 per month
Each station, primary or extension, wall or desk set not in guest rooms	1 00 per month
Each station, primary or extension in guest rooms:	
Wall set	50 per month
Desk set	75 per month
First both-way trunk line	11 00 per month
Each additional both-way trunk line	8 25 per month
Each outgoing trunk line	9 00 per month
Each incoming trunk line	6 00 per month

Intercommunicating Systems, Business Unlimited Service.

Each station, wall or desk set, with switching device, same premises as primary station:	
Ten-line switching device	$1 50 per month
Twenty-line switching device	1 75 per month
Thirty-line switching device	2 00 per month
Each station, wall or desk set, with switching device, outside premises on which primary station is located, but not exceeding 300 feet from primary station:	
Ten-line switching device	2 25 per month
Twenty-line switching device	2 50 per month
Thirty-line switching device	2 75 per month
First both-way trunk line	11 00 per month
Each additional both-way trunk line	8 25 per month
Each outgoing trunk line	9 00 per month
Each incoming trunk line	6 00 per month

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Intercommunicating Systems, Residence Unlimited Service.

Each station, wall or desk set, with switching device on same premises as primary station:	
Twelve-button switching device	$1 50 per month
Twenty-four-button switching device	1 75 per month
Thirty-six-button switching device	2 00 per month
Each station, wall or desk set, with switching device, outside premises on which primary station is located, but not exceeding 300 feet from primary station:	
Twelve-button switching device	$2 25 per month
Twenty-four-button switching device	2 50 per month
Thirty-six-button switching device	2 75 per month
Each both-way trunk line	3 75 per month

Apartment House System.

Apartment telephone, connected with its vestibule and janitor set, wall set	$0 25 per month
Vestibule set, including telephone	50 per month
Janitor set, including telephone	1 00 per month

Primary Rate Area.

The foregoing rates are for service within the primary rate area as outlined in this decision.

Other Rates and Rules and Regulations Affecting Rates.

Rates other than those herein suggested, and rules and regulations governing all rates should, until or unless otherwise authorized by the Commission, remain as at present and schedules providing therefor should be filed by the company, subject to the approval of the Commission.

In the rate schedule submitted by the company the so-called P. B. X. both-way trunk service and the rates now quoted for such service were eliminated. No reasons for this particular elimination were presented by the company. It appears, however, that the great bulk of private branch exchange trunk service in Los Angeles is over both-way trunks and that about 90 per cent of private branch exchanges would be affected by this change. This class of service, therefore, should be continued unless the company can show that the public interest is better served by an elimination. If the company desires to make such a showing, this may be done in a supplemental proceeding.

7. The Relation Between Southern California Telephone Company, The Pacific Telephone and Telegraph Company, American Telephone and Telegraph Company, Western Electric Company, and Other Affiliated Companies.

The city, generally speaking, takes the position that, by reason of the relationship existing between the company and the corporations with which it is affiliated, the cost of telephone service to the Los Angeles subscribers is unduly increased and a financial showing much less favorable than the actual showing, and less favorable than need be, is produced on applicant's books. This result is brought about, in the city's view, because of unreasonably high payments to the American Company for services rendered, also by means of a division of joint

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revenue and expenses (referring to toll business) between affiliated companies resulting to the disadvantage of applicant and further, by reason of excessive material and supply costs for plant and equipment manufactured and furnished by the affiliated companies.

The company, on the contrary, insists that its affiliations with other Bell telephone companies and enterprises result in distinct benefits to the public and lower rather than increased cost of service. Western Electric Company material prices and charges for service are not too high in the opinion of the company, and payments made for services to the American Company and divisions of joint revenues and expenses are fair.

We have already dealt with the so-called licensee revenue payment and allowed in our expense estimate the sum of $120,000 per annum as a reasonable and fair compensation for the service rendered by the American Company, through the Pacific Company, to applicant under the terms of the agreement of May 31, 1917 (Company's Exhibit No. 29). We believe no sum larger than $120,000 for this purpose should be charged to operation and that whatever additional amount this applicant elects to pay to the Pacific Company, or to the American Company, under the terms of this contract, should be a deduction from net income. On the expiration of the present contract at the end of next year the reasonableness of its terms will be before the Commission. We have also stated our view on the matter of apportionment of toll revenue and are of the opinion that this matter can not be properly decided in this case.

Applicant is controlled by the Pacific Company through ownership of all the outstanding stock, except a few qualifying directors' shares (60,869 shares of a par value of $6,086,900). No dividends have been paid on this stock. The Pacific Company owns none of the applicant's outstanding bonds and receives, therefore, no bond interest. The Pacific Company, however, has loaned to applicant considerable amounts for construction and on these loans interest is paid at the rate of 6 per cent. For labor and material delivered to applicant by the Pacific Company, or vice versa, the actual cost is charged and paid. The Pacific Company also collects from applicant the so-called licensee revenue and turns it over, without deduction, to the American Company.

Applicant is indirectly controlled by the American Company through the latter's ownership of the majority of the stock of the Pacific Company (73.3 per cent on December 31, 1920). The American Company owns none of applicant's bonds or notes. Indirectly it receives the licensee payment paid the Pacific Company and such interest and dividends as it may earn through ownership of the securities of the Pacific Company and of the Western Electric Company.

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The licensee payment agreement referred to above provides for a payment of 4½ per cent on gross revenue, the computation to be made as follows:

> The same proportion of the gross earnings of the Southern Company as the proportion of the instruments not furnished by the American Company bears to the total number of instruments used in the service of the Southern Company. This plan to be effective until January 1, 1923, provided, however, that the proportion of the gross earnings so excluded shall, at no time, be more than at the beginning of business by the Southern Company.

The question of equitable contract terms will arise, therefore, after January 1, 1923.

The matter of the 4½ per cent payment by its subsidiaries to the American Company has had the attention of this Commission repeatedly, and particular reference is here made to Decision No. 1254 (San Jose Telephone Rate Case, Vol. 4, page 150, Opinions and Orders of the California Railroad Commission). We believe that a payment on a mere percentage basis, regardless of the kind and quality of the service rendered, is not a fair measure of such services. A truer measure can be had, we believe, by estimating as accurately as possible what the value of such service amounts to in each particular case, and this method we have applied in this instance.

With reference to this applicant's relations to other affiliated companies, we have reached no definite conclusions. A decision on that point we do not consider essential to a determination of this case. This matter should be reserved for a more thorough analysis in the pending statewide telephone rate case.

8. Service.

We have given particular attention in this proceeding to the matter of service. Reference has already been made to the service investigation instituted by the Commission in Case No. 1531. That proceeding will be kept open and further careful attention will be given by the Commission to this matter. Counsel for the company has urged that the service now rendered by applicant in Los Angeles is excellent. This statement is not borne out by the facts before the Commission.

Service conditions must be improved and means must be found to meet more promptly and more satisfactorily than in the past the demand for new telephones that is bound to continue at a rapid rate in Los Angeles. The rates fixed in this decision will make it possible for applicant to render a high class telephone service.

The Commission's telephone engineers, in conjunction with the engineers of the Board of Public Utilities of the city of Los Angeles, made an analysis of the company's records of service observations and of trouble records. In addition, an independent service test was conducted by these engineers. The analysis of the company's own records

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led to the conclusion that the management is making satisfactory efforts to give good service, but that the number of troubles reported is excessive, that the actual trouble is not cleared with sufficient promptness and that the investigation of a considerable portion of the troubles is not carried far enough to determine and eliminate the condition occasioning the report. The independent service tests led to the conclusion that the plant and equipment is not being maintained in such condition as to provide good service and that a larger number of better trained employees is required for the proper maintenance of the plant.

Since these conclusions were reached, the company has made arrangements, upon the Commission's suggestion, to increase its maintenance and construction forces and we believe an improved service may confidently be expected.

The following form of order is suggested:

ORDER.

Southern California Telephone Company having applied to the Commission for an order, fixing just and reasonable rates for telephone service, for the fixing of an effective date and for the definition of exchanges and exchange boundaries, together with rules and regulations; hearings having been held and the Commission basing its conclusions on the foregoing opinion, and finding as a fact that the rates authorized and the classes of service suggested in this opinion, together with the exchange area and boundaries defined, are just and reasonable;

It is hereby ordered, that applicant file with the Commission within fifteen (15) days of the date of this order a schedule of rates and services as outlined in the preceding opinion. Upon approval by the Commission of the schedule so filed, applicant is authorized to make these rates effective as of January 1, 1922, such authorization to be subject to the following conditions:

1. Adequate and efficient telephone service shall be rendered at all times for all classes of service.

2. Applicant shall file with the Commission within fifteen (15) days of this order, for the approval of the Commission, a map showing the Los Angeles primary rate area as outlined in the foregoing opinion.

3. Applicant shall submit to the Commission, within fifteen (15) days from the date of this order, its proposed rules and regulations to conform to the rate structure outlined in the foregoing opinion and to the prescribed rate area.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

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Dated at San Francisco, California, this fourteenth day of December, 1921.

SUPPLEMENT "A".

(Accompanying Decision No. 9864.)

List of exhibits filed in Application No. 6285.

I—Filed by the company:

A. Financial statement.
B. Monthly rates for principal classes of service.
1. Statement of delayed orders held for material or equipment.
2. Narrative report of construction.
3. Increased annual expense due to wage increases only.
4. Gross revenues, expenses and net income 8 months 1917, years 1918-19-20 and January, 1921.
5. Income statement, 1917.
6. Income statement, 1918.
7. Income statement, 1919.
8. Income statement, 1920.
9. Income statement, 1921.
10. Classification of stations by classes of service and by rates, February 28, 1921.
11. Estimated revenues and expenses year 1921 under present rates.
12. Proposed rates covering the principal classes of service, together with map showing proposed primary rate area.
12a. Proposed exchange rates.
13. Estimated revenues and expenses year 1921 under proposed rates.
13a. Proposed exchange rates, year 1921.
14. Map showing present rate areas.
15. Map showing present rate areas.
16. Map showing proposed primary rate area.
17. Area assigned to the Southern California Telephone Company under Decision 3845.
18. Map showing area assigned to Southern California Telephone Company under Decision 3845.
19. Map showing annexations to the city of Los Angeles and also area assigned to the Southern California Telephone Company.
20. Inventory of property of Southern California Telephone Company September 30, 1920.
21. Estimated cost of reproduction of property of Southern California Telephone Company, September 30, 1920.
22. Report in connection with estimated cost of reproduction Southern California Telephone Company, September 30, 1920.
23. Estimated cost of reproduction less depreciation of property Southern California Telephone Company, September 30, 1920.
24. Estimated cost of reproduction and estimated cost of reproduction, less depreciation, Southern California Telephone Company brought down to March 31, 1921, and October 31, 1921.
25. Southern California Telephone Company actual performance appraisal.
26. Summary of appraisals and fair value.
27. Standard supply contracts and supplements thereto between Southern California Telephone Company and Western Electric Company.
28. Comparison cost of telephone materials to Home Telephone and Telegraph Company of Los Angeles and Home Telephone and Telegraph Company of Portland, Oregon, vs. cost of equivalent items to Southern California Telephone Company under contract with Western Electric Company.
29. Copy of agreement with the American Telephone and Telegraph Company. Copy of agreement with the Pacific Telephone and Telegraph Company.
30. Reply memorandum in answer to Exhibit "B" of the Board of Public Utilities of the city of Los Angeles.

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II—Filed by the city:

A. Report entitled, "Board of Public Utilities, Southern California Telephone Company, Increase of Rates—Before California Railroad Commission—H. Z. Osborne, Jr., Chief Engineer."

B. Income statements for the years succeeding consolidation, May 1, 1917, to September 30, 1921.

C. Reply memorandum in answer to Exhibit 30 of Southern California Telephone Company.

III—Filed by Engineering Conference:

A. Report of Engineering Conference in Southern California Telephone Company rate case, November 7, 1921.

DECISION NO. 9872.

IN THE MATTER OF THE APPLICATION OF OJAI POWER COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE ADDITIONAL SECURITY.

Application No. 7275.
Decided December 16, 1921.

Drapeau, Orr and Gardner, by *H. F. Orr*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended by its supplemental petition, Ojai Power Company asks permission to issue $31,600 of its common capital stock and to use the proceeds to construct, extend and improve its facilities and service and to reimburse itself for moneys expended for capital purposes.

A public hearing was held before Examiner Westover at Ojai.

Ojai Power Company, which was incorporated on or about July 22, 1912, owns and operates an electric transmission and distribution system in Ojai Valley, Ventura County, and a water plant in the city of Ojai. It reports its assets and liabilities as of October 1, 1921, as follows:

Assets.

Electric investment	$40,081 48
Water investment	18,986 87
Special deposits	1,500 00
Cash	4,500 72
Materials and supplies	1,175 28
Prepaid expense	481 75
Total assets	$66,726 10

Liabilities.

Capital stock	$48,400 00
Accounts payable	5,471 97
Consumers' deposits	4,511 90
Accrued taxes	376 20
Water depreciation reserve	83 33
Electric depreciation reserve	1,527 95
Undivided profits	4,854 75
Surplus	1,500 00
Total liabilities	$66,726 10

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The company when incorporated had an authorized stock issue of $50,000 of common stock. The petition shows that recently applicant increased its authorized stock to $100,000, divided into 1000 shares of the par value of $100 each. As shown in the foregoing balance sheet, $48,400 of stock is at present outstanding.

Applicant now desires permission to issue additional stock of the par value of $31,600. The testimony of M. W. Phillips, applicant's vice president and general manager, shows that the company proposes to issue $3,100 of the stock to pay advances made to it by consumers and which were used for capital purposes and to sell the remaining stock at par. Mr. Phillips stated that in his opinion the entire amount could be sold.

Applicant reports that it intends to use the proceeds from the sale of its stock for the following purposes:

(1) To reimburse treasury		$13,030 38
a. Cost of additions and betterments to water plant since Commission's appraisement January 30, 1919	$5,970 70	
b. Cost of additions and betterments to electric properties since Commission's appraisement June 15, 1920	7,059 68	
(2) To reconstruct two miles of line to Foot Hills Hotel, using No. 4 and No. 6 wire on 40-foot poles		2,500 00
(3) To reconstruct two miles of 6600-volt line on 40-foot poles in the east end of Ojai Valley		1,500 00
(4) To construct new substation		10,000 00
(5) For future extensions, additions and betterments		4,569 62
		$31,600 00

The testimony of M. W. Phillips shows that the $13,030.38 which applicant has heretofore expended and for which it now seeks reimbursement was obtained or will be obtained from the following sources:

From the sale of obsolete electric equipment	$5,970 70
From consumers' advances	3,100 00
From surplus earnings	3,959 68
	$13,030 38

We are of the opinion that the Commission can not authorize the reimbursement of the treasury for moneys expended for additions and betterments when such moneys were obtained from the sale of other properties, and when no reduction was made in the capitalization of the company at the time the property was sold. The additions and betterments acquired through the use of the proceeds from the sale of property are a substitution for the property sold.

If stock were issued to reimburse the company because the proceeds from the sale of property were invested in additions and betterments, double capitalization would result. The order herein will authorize

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applicant to reimburse its treasury out of proceeds from the sale of stock, only to the extent that actual surplus earnings were invested in properties, which surplus earnings are reported at $3,959.68. The agreement of consumers, above referred to, to take stock for $3,100 of their $4,511.90 in deposits, provides a reimbursement for them, rather than applicant's treasury.

In addition to these expenditures which have already been made, the company reports that it has become necessary to reconstruct at a net cost of $4,000, two miles of line to Foot Hills Hotel, using No. 4 and No. 6 wire on 40-foot poles, and two miles of 6600-volt line in the east end of Ojai Valley; and to expend about $10,000 in the construction of a new substation.

The petition and testimony show that Ojai Power Company heretofore has purchased electric power from Southern California Edison Company on a contract which provided for the purchase of electric energy at 2200 volts, the substation equipment being owned by the latter company. Southern California Edison Company now offers applicant power on a new rate which contemplates the purchase of power at transmission voltage, which is 15,000 volts. To take advantage of this new rate, applicant must install its own equipment or go on a higher rate. Applicant estimates that it will save approximately $2,200 a year by constructing its own substation and thus enabling it to receive the more favorable rates by taking electric energy at transmission voltage. Applicant has filed as Exhibit "A," attached to its supplemental petition, a detailed statement of the estimated cost of the proposed substation, which estimated cost is $8,500. M. W. Phillips testified that in addition to this amount, about $1,000 would be needed to pay freight and installation charges.

Applicant reports that its business is continually growing and that it has been found necessary to expend from three to six thousand dollars a year to take care of new consumers. It asks that it be permitted to use a portion of the proceeds from the sale of its stock to provide an adequate depreciation reserve with which to make additional extensions from time to time.

The primary function of depreciation reserve is to take care of replacements, and such reserve should be built up by appropriations of earnings, and not through the sale of stock. The testimony does not, in our opinion, justify the issue of stock to increase applicant's depreciation reserve. The Commission will, however, at this time authorize applicant to issue stock to pay the cost of additions and betterments hereafter constructed. The proceeds from the sale of such stock must be deposited in a special fund and may be expended only for such purposes as the Commission may authorize in a supplemental order or orders. When applicant desires to withdraw any moneys in the special

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fund it should file a supplemental application showing the purposes for which it intends to use the proceeds.

ORDER.

Ojai Power Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Ojai Power Company be and it is hereby authorized to issue, on or before June 30, 1922, $31,600 (316 shares) of its common capital stock.

The authority herein granted is subject to the following conditions:

1. $3,100 of the stock herein authorized may be issued at par in repayment of advances made by consumers, and the remainder shall be sold at par for cash.

2. Of the proceeds obtained from the sale of the stock herein authorized, applicant may use not exceeding $3,959.60 to reimburse its treasury on account of surplus earnings invested in plant, and may use not exceeding $14,000 in the construction of the proposed substation and in the reconstruction of the four miles of line to which reference is made in the preceding opinion. All other proceeds obtained from the sale of the stock herein authorized shall be deposited by applicant in a special bank account to be regarded as a special fund and expended only as hereafter authorized in a supplemental order or orders.

3. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this sixteenth day of December, 1921.

DECISION No. 9875.

IN THE MATTER OF THE APPLICATION OF THE CONSOLIDATED CANAL COMPANY FOR AUTHORITY TO BORROW THE SUM OF FIFTY THOUSAND DOLLARS AND TO EXECUTE ITS NEGOTIABLE PROMISSORY NOTE THEREFOR.

Application No. 6959.
Decided December 16, 1921.

L. L. Cory, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, Consolidated Canal Company asks permission to issue its promissory note or notes in the aggregate face amount of

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$50,000 and to use the proceeds to pay, in part, outstanding indebtedness and to provide funds with which to make certain necessary repairs to its properties or to reconstruct a portion of its canal system.

A public hearing was held on this application by Examiner Satterwhite at Fresno.

Consolidated Canal Company was incorporated on or about August 12, 1901, with an authorized stock issue of $500,000 of common stock. The company at present is engaged in the business of supplying water for irrigation purposes in Fresno County and Kings County, serving approximately 95,000 acres of land. As of May 31, 1921, it reports outstanding all of its authorized capital stock, $120,000 of its first mortgage 5 per cent gold bonds due December 1, 1932, and $52,509.82 of current liabilities. Its corporate surplus as of the same date amounted to $90,885.56.

The testimony of L. A. Nares, applicant's president, shows that the company has made arrangements to issue unsecured notes bearing interest at not more than 7 per cent per annum. It desires permission to issue the notes for such terms as it deems advisable and to renew them from time to time; provided that the combined terms of the notes originally issued and those issued in renewal thereof shall not exceed one year after date of the first note.

The testimony further shows that applicant proposes to use about $25,000 of the proceeds from the issue of the notes to refund, in part, outstanding indebtedness that was originally incurred for capital purposes and to use the balance of the proceeds for the improvement and maintenance of its facilities and service.

ORDER.

Consolidated Canal Company having applied to the Railroad Commission for permission to issue notes, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Consolidated Canal Company be and it is hereby authorized to issue for a term not exceeding one year, at not less than face value, its promissory note or notes in the aggregate face amount of $50,000, and to use the proceeds for the purpose of refunding, in part, its current indebtedness and for the improvement of its facilities and service as described in this application.

The authority herein granted is subject to further conditions, as follows:

1. The notes herein authorized to be issued shall bear interest at not more than 7 per cent per annum.

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2. Applicant may, if it so desires, issue notes for a period of less than one year and renew them from time to time, provided that the combined terms of the notes herein authorized and of the notes issued in renewal thereof, shall not exceed one year after date of the note or notes originally issued under the authority granted herein.

3. Consolidated Canal Company shall keep such record of the issue of the notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $50.

Dated at San Francisco, California, this sixteenth day of December, 1921.

DECISION NO. 9876.

IN THE MATTER OF THE APPLICATION OF WILLIAM PECK AND HERBERT E. CULLER, DOING BUSINESS AS "HADDOCK VILLA WATER SYSTEM," FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 6996.

Decided December 16, 1921.

William Peck and *Herbert E. Culler, in propria persona.*

BY THE COMMISSION.

OPINION.

In the above application William Peck and Herbert E. Culler, doing business as "Haddock Villa Water System," ask for a certificate that public convenience and necessity require them to construct and operate a domestic water system to serve a tract of approximately 70 acres of land, being Tract No. 4082, and the southwest quarter of the southeast quarter of section 36, township 2 south, range 14 west, San Bernardino meridian, in Los Angeles County.

A public hearing was held in the above entitled application, before Examiner Williams, of which all interested parties were notified and given an opportunity to appear and to be heard.

The system as installed consists of a ten-inch well, 550 feet deep, from which water is pumped into four 10,000-gallon tanks elevated some 25 feet above ground and located on the highest point of the service area. Distribution mains are laid throughout the tract to serve 339 lots. The well, from all indications, has ample capacity to furnish an adequate supply of water.

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Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, submitted a report showing the estimated cost of the system to be $12,099.51 and a replacement annuity amounting to $329.

No one appeared to protest the granting of the application, the rates or the rules and regulations contained therein.

The system was installed to aid in the sale of real estate and is largely overbuilt at the present time. However, the rates as set forth in the following order are reasonable rates and will produce a revenue that will do substantial justice to both the applicant and the consumer.

ORDER.

William Peck and Herbert E. Culler, doing business as "Haddock Villa Water System," having made application as entitled above, a public hearing having been held thereon and the matter having been submitted;

The Railroad Commission of the State of California hereby declares that present and future public convenience and necessity require and will require William Peck and Herbert E. Culler, doing business as Haddock Villa Water System, to operate a water system for the purpose of supplying water for domestic purposes to Tract No. 4082, as per map recorded on page 36 of book 44 of maps, records of Los Angeles County, California, and for the southwest quarter of southeast quarter of section 36, township 2 south, range 14 west, San Bernardino meridian, in Los Angeles County; and

It is hereby ordered, that William Peck and Herbert E. Culler, doing business as Haddock Villa Water System, be and they are hereby directed to file with this Commission within twenty (20) days of the date of this order the following schedule of rates to be charged for all water delivered to consumers on and after December 31, 1921:

Flat Rates.

Where no meter is furnished a flat rate of $1.50 per month shall be charged.

Meter Rates.

Monthly minimum charges—	
⅝-inch meter	$1 25
¾-inch meter	1 50
1-inch meter	1 75
For all water used, per month—	
From 0 to 500 cubic feet per month, per 100 cubic feet	$0 25
From 500 to 1000 cubic feet per month, per 100 cubic feet	20
From 1000 to 2000 cubic feet per month, per 100 cubic feet	15
Over 2000 cubic feet per month, per 100 cubic feet	0425

It is hereby further ordered, that William Peck and Herbert E. Culler, doing business as Haddock Villa Water System, be and they are hereby directed to file with this Commission within thirty (30) days of the date of this order, rules and regulations to govern relations with their consumers.

Dated at San Francisco, California, this sixteenth day of December, 1921.

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DECISION NO. 9877.

IN THE MATTER OF THE APPLICATION OF THE SAN RAFAEL RANCH COMPANY FOR PERMISSION TO DISCONTINUE WATER SERVICES.

Application No. 6989.

Decided December 16, 1921.

WATER UTILITY—DISCONTINUANCE OF SERVICE—ADEQUATE ALTERNATIVE SUPPLY.—An adequate alternative supply being available, applicant is permitted to discontinue service, it being held unwise to require applicant to continue to supply water in competition with municipal systems whose mains are already in place.

John Munger and *Sheldon Borden*, for Applicant.
G. E. Waldo, for Protestants.
W. S. Volkmar, in propria persona.

BY THE COMMISSION.

OPINION.

The San Rafael Ranch Company, a corporation, applicant herein, owns and operates what is known as the Parkdale Water System, a public utility supplying water for domestic purposes. The distribution system is located partly in the city of Pasadena, partly in the city of Los Angeles, and partly in the adjacent unincorporated portion of the county of Los Angeles. Applicant asks permission to discontinue water service to all persons formerly served and now being served by that portion of its system in the cities of Los Angeles and Pasadena, with the exception of two isolated consumers in the city of Pasadena.

A public hearing was held in Los Angeles before Examiner Williams, of which all interested parties were notified and given an opportunity to be present and be heard.

It appears from the testimony presented that this water system was installed by the San Rafael Ranch Company about 1906, primarily to aid in the sale of the company's real estate. The earlier forms of contract covering the sales of lots by the San Rafael Ranch Company contained a provision obligating the company to furnish water for domestic purposes to the purchaser on his request at the same rate established for water service by the city of Pasadena. This form of contract was later somewhat modified.

The evidence indicates that the available water supply developed by the company's wells has gradually decreased during the past six years, and in consequence it has been necessary for the utility to purchase water from the city of Pasadena during a portion of the years 1919, 1920 and 1921; that the applicant has expended considerable sums of money in an attempt to increase the available water supply but without success; that the system is in a dilapidated condition and requires the expenditure of an unreasonable amount for maintenance and operation, and that unless permission to discontinue service is granted it will be necessary to replace a large portion of its distribution system

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at a heavy expense. It was also shown that the city of Pasadena and the city of Los Angeles stand ready to supply all the consumers to whom the applicant desires to discontinue service, and that all the services in Pasadena excepting that of Captain Volkmar have been disconnected from the Parkdale Water System and are now being supplied by the municipally owned and operated water system of the city of Pasadena.

Protestants herein, all residents of the city of Pasadena, contend that the service rendered by the city of Pasadena is inferior to that formerly supplied by the Parkdale Water System, and that they consented to a transfer of their services to the system owned by the city of Pasadena under the impression that they would later be connected to the city's high pressure system, but they now find that this is not the case, and owing to the lower pressures prevailing on the municipal system it will be necessary to expend considerable sums for the rebuilding of their private pipe lines in order to secure an adequate supply.

Tests of the pressures maintained on the system owned by the city of Pasadena were taken by Mr. J. G. Hunter, one of the Commission's hydraulic engineers, and it was found that the minimum pressure at the ground elevation in this territory was 31 pounds, which is adequate for all ordinary domestic use.

Captain Volkmar, who owns approximately twelve acres of land and who maintains about three and a half acres of nursery on the lower levels, contends that the system now operated by the city of Pasadena will not supply the higher levels of his ground, upon which it is his intention to erect a residence in the future. It was shown, however, that the pressures maintained in the city's system are sufficient for his present needs, and that plans have been drawn and expenditures authorized for the construction of a high-pressure reservoir, which upon its completion will adequately supply all portions of this property. Captain Volkmar also contends that the terms of the contract entered into with the San Rafael Ranch Company obligate that company to supply him with water at all times, and that he is a consumer under private contract rather than under a public utility status.

There are eight consumers within the city limits of Los Angeles who are now supplied by this system, none of whom appeared to protest the granting of the application, although due notice of the hearing was given them. It appears that the city of Los Angeles is ready at any time to connect these consumers with its water mains and to supply them with water.

A careful consideration of all the evidence presented leads to the conclusion that there is an adequate alternative water supply available for the use of all consumers to whom the applicant is asking permission to discontinue service, and that under the circumstances it would be unwise to require the applicant to continue to supply water in compe-

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tition with the municipal systems whose mains are already in place in the streets.

ORDER.

The San Rafael Ranch Company having made application to the Railroad Commission for permission to discontinue water service to its consumers in the city of Los Angeles and to certain consumers in the city of Pasadena, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that public convenience and necessity do not require applicant to continue to supply water to the consumers referred to in this application.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that San Rafael Ranch Company be and it is hereby authorized to discontinue, on and after March 1, 1922, such public utility service as it has heretofore rendered to its consumers within the city of Los Angeles and to its consumers within the city of Pasadena, excepting R. C. Gould and Mrs. J. W. McKinley, upon the following conditions:

1. Within ten (10) days of the date of this order applicant shall notify each consumer to whom service is to be discontinued that on and after March 1, 1922, such service will be discontinued as authorized herein.

2. Within twenty (20) days from the date of this order applicant shall file with this Commission a certified statement that all consumers have been so notified.

Dated at San Francisco, California, this sixteenth day of December, 1921.

DECISION NO. 9878.
C. W. CURPHEY
vs.
ED ROYCE.

Case No. 1502.
Decided December 16, 1921.

PROCEEDING IN CONTEMPT.—Proceeding is dismissed as defendant was ordered to cease operations as a common carrier and it did not appear that defendant actually operated as a common carrier since the order.

H. W. Kidd and *Rex Hardy*, for Complainant.
Dare F. Smith, Walter T. Casey and *Ross and Whitelaw*, for Defendant.

BY THE COMMISSION.

OPINION.

This is a contempt proceeding against Ed Royce, instituted upon the affidavit of C. W. Curphey, filed May 31, 1921.

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On June 8, 1921, the Commission made an order substituting M. R. Downing, as administrator of the estate of C. W. Curphey, deceased, in lieu and place of said C. W. Curphey.

On June 1, 1921, the Commission issued an order directing said Ed Royce to show cause why he should not be punished for contempt, as set forth in said affidavit. The matter was heard at El Centro before Examiner Satterwhite on June 20, 1921. Evidence was received on behalf of both complainant and defendant and the matter was submitted.

The order of the Railroad Commission, which it was alleged that said Ed Royce had disobeyed, was made May 21, 1921, and read, in part, as follows:

> *It is therefore ordered*, that Ed Royce be and he is hereby directed to discontinue forthwith said auto truck service as a common carrier of freight between El Centro and Calipatria and Calexico and intermediate points, and between El Centro and Holtville and intermediate points, within Imperial County, California.

It will be observed that this order did not direct said Ed Royce to cease operations in violation of the Auto Stage and Truck Transportation Act, nor to cease operations as a contract carrier, but it ordered him to discontinue his service as a *common carrier.*

Unless the evidence established that said Ed Royce was operating as a common carrier, he can not be held for contempt in this proceeding even though his operations may have been unlawful in other respects. A thorough examination of the evidence convinces us that complainant failed to prove that Ed Royce was operating as a common carrier. The most that was established was that he had made not more than twelve trips over the routes in question, and that all of these trips were made under some arrangement with the Sperry Flour Company for hauling flour. There was evidence that, by means of newspaper advertisements, said Ed Royce did hold himself out to the public as a common carrier, but there was no evidence that he ever actually engaged in any form of hauling which could be classed as that of a common carrier. The most that can be said is that Royce showed an attitude of disregard for the order of the Commission and a willingness to violate the order; but, as already stated, the evidence did not show that he ever actually operated as a common carrier. It follows, therefore, that the proceeding must be dismissed.

The Commission desires to make it plain that in dismissing this proceeding it does not sanction the operations which it was shown were being carried on by said Ed Royce. The question of the legality of these operations is not before the Commission in this proceeding.

ORDER.

For the reasons stated in the foregoing opinion,

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It is hereby ordered, that the said order to show cause be, and the same is, hereby dismissed.

Dated at San Francisco, California, this sixteenth day of December, 1921.

DECISION No. 9885.

IN THE MATTER OF THE APPLICATION OF THE CITY OF REDDING TO FIX THE JUST COMPENSATION TO BE PAID BY THE CITY OF REDDING TO NORTHERN CALIFORNIA POWER COMPANY, CONSOLIDATED, FOR ITS PROPERTY OWNED AND USED BY IT IN SAID CITY FOR THE PURPOSE OF DISTRIBUTION OF ELECTRIC ENERGY IN SAID CITY.

Application No. 3718.

Decided December 16, 1921.

JUST COMPENSATION—APPRECIATION IN VALUE.—It is held that in fixing just compensation to be paid by a city for acquiring a public utility property, subsequently accrued since the filing of the original petition, items of claimed appreciation in value due to increased market prices entering into the valuation of the property or into the allowance for severance damage are not allowable under the provisions of the Public Utilities Act.

BY THE COMMISSION.

SECOND SUPPLEMENTAL OPINION AND FINDING ON AMOUNT OF JUST COMPENSATION.

The finding and order of the Railroad Commission herein fixing the just compensation to be paid by the city of Redding for the electric distribution system sought to be acquired was made on the fourteenth day of March, 1921 (Decision No. 8745), the total amount therein fixed including severance damage, was $52,708.99. Thereafter, the city of Redding instituted an action in the Superior Court of the county of Shasta, State of California, for condemnation of the property thus valued, and a judgment was rendered in this action on October 28, 1921, by which it was decreed that the city of Redding should acquire the property in question at the compensation fixed by the Railroad Commission, subject, however, to the modification contemplated by section 47(*b*) of the Public Utilities Act on account of additions, betterments, depreciation, or deterioration or other changes in the property transpiring since the date of the filing of the original petition in this proceeding.

On November 23, and November 26, 1921, respectively, the city of Redding and the Pacific Gas and Electric Company, successor in interest of the Northern California Power Company, Consolidated, filed their petitions with the Commission pursuant to subdivision 9 of section 47(*b*) of the Public Utilities Act, asking that the Commission make its finding, decreasing or increasing (as the case might be) the just compensation heretofore fixed. These petitions were consolidated for hearing and decision and a hearing was had thereon on December

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12, 1921, before Examiner Gordon, at San Francisco. Further hearings were had on December 15 and 16, evidence, both oral and documentary, was received in support of both petitions and the matter was submitted and is now ready for decision.

The evidence shows without conflict that expenditures have been made by the company since the filing of the original petition for the purpose of preserving and improving the property in question, and that there has also been a certain amount of the property abandoned or removed. It was stipulated that a net value of such additions and betterments, after deducting all allowances for abandoned property and removals, is the sum of $13,416.62. The evidence further shows that since the date of filing of the original petition that portion of the system which is being condemned and which is not a part of the additions and betterments just referred to, has suffered a depreciation and deterioration, by reason of which its value has diminished in the amount of $8,772.93.

The Pacific Gas and Electric Company, in its petition, alleges that the just compensation heretofore fixed should be also increased by reason of appreciation in value of the plant covered in the basic inventory due to higher market prices prevailing December 16, 1921, on cost of materials entering into the construction of the plant, over the market prices heretofore used in fixing its just compensation as of May 2, 1918. The amount of increase claimed on this account as modified by the company at the hearing and as finally urged was in the sum of $1,897.96. A similar claim was made by the company for an increase in the amount of just compensation for severance damage amounting to $1,589.01. The city objected to any consideration being given to either of these items, urging that they were not legally allowable under the provisions of the Public Utilities Act. It was stipulated, however, by both the company and the city, that the amount claimed by the company as above set forth correctly represents the difference in just compensation due to increased unit prices prevailing December 16, 1921. There was no other evidence to contradict the correctness of the company's claims on these items. The Commission, however, is of the opinion that the contention of the city is correct, and that these items of so-called "appreciation in value," due to increased market prices entering into the valuation of the property or into the allowance for severance damage, are not allowable under the provisions of the Public Utilities Act.

FINDING.

After due consideration of all the evidence herein, the Commission hereby makes and files its finding, fixing, as of this sixteenth day of December, 1921, the extent to which the just compensation heretofore fixed herein, should be increased by reason of the matters alleged in

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said petitions filed herein by the city of Redding and the Pacific Gas and Electric Company on November 23, 1921, and November 26, 1921, respectively:

The Commission finds that subsequent to the date of the filing of the original petition herein the owner of the lands, property and rights herein sought to be acquired by the city of Redding, made expenditures in the amount of $13,416.62 for the purpose of preserving and improving said lands, property and rights, and that said expenditures were reasonably and prudently made and were beneficial to said lands, property and rights to the extent of the said sum of $13,416.62, and that by reason thereof the just compensation heretofore fixed herein should be increased in said sum of $13,416.62, subject, however, to the deduction hereinafter set forth by reason of depreciation: that subsequent to the filing of the original petition herein the property, to wit, the electric distribution system sought to be condemned herein, has depreciated and deteriorated, and that by reason thereof its value has diminished in the amount of $8,772.93, and that the just compensation heretofore fixed herein should be decreased in said amount of $8,772.93; that by reason of the matters set forth in this finding the just compensation heretofore fixed herein by the order made March 14, 1921, should be increased in the net amount of $4,643.69.

Dated at San Francisco, California, this sixteenth day of December, 1921.

DECISION No. 9886.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AGENT, FOR PERMISSION TO INCREASE RATES ON PETROLEUM ROAD OIL.

Application No. 6780.

Decided December 20, 1921.

FREIGHT RATES—PETROLEUM ROAD OIL—CRUDE OIL AND ASPHALTUM GROUPINGS.—Application of the carriers to take petroleum road oil out of the crude oil tariffs grouping and place it in the asphaltum grouping, thus increasing the rate, denied, the Commission holding that crude oil and so-called road oil are both used for road-making purposes and are indistinguishable without technical analytical test.

E. W. Camp, for Applicant.
James S. Moore, Jr., for Western Pacific Railroad Company.
G. H. Baker, for Atchison, Topeka and Santa Fe Railway Company.
B. H. Carmichael and *Stuart M. Salisbury*, for A. F. Gilmore Company, California Petroleum Exchange, and others.
Ray C. Wakefield, for County of Fresno.
F. M. Hill, for Fresno Traffic Association for the City and County of Fresno.
E. W. Hollingsworth, for Oakland Chamber of Commerce.
Frank Karr, for Pacific Electric Railway Company.
H. H. Gogarty, for Southern Pacific Company.
F. P. Gregson, for Associated Jobbers of Los Angeles.
George S. Strait, for County of Los Angeles.

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R. W. Stewart, for City of Los Angeles.
A. C. Fulmor, for County of Riverside.
F. W. Slabaugh, *Colonel Finley* and *M. C. Wolff*, for Orange County.
Mr. Buchanan, for City of Orange.
R. V. Orbison, for City of South Pasadena.
J. K. Macomber, for Tulare County.
F. E. Foster, for Santa Maria Oil Fields, Incorporated.
G. F. Hyatt, for City of Coronado.
M. E. Clayson, for City of Corona.
L. R. Lothrop, for San Bernardino City.
J. M. Cole and *J. W. Cole*, for San Bernardino County.
A. S. Halsted, for Los Angeles and Salt Lake Railroad.
Roscoe R. Hess, for City of Pasadena.
Grant M. Lorranie, for City of Alhambra.
Alfred See, for City of Ontario.
Mr. Hinkley, for City of Redlands.
Mr. Boswell, for City of Long Beach.

LOVELAND, *Commissioner*.

OPINION.

F. W. Gomph, agent, in the name and on behalf of all carriers parties to the tariffs named in Exhibit 2, attached to and made a part of the application in this proceeding, petitions the Railroad Commission, under section 63 of the Public Utilities Act, for an order granting permission to establish increased rates on petroleum road oil by eliminating that commodity from the items and commodity description for crude oil grouping in tariffs referred to in said application, and to add petroleum road oil to the asphaltum grouping, thus applying the asphaltum rate to petroleum road oil.

Hearings were held in San Francisco and Los Angeles, final briefs were submitted on November 12, 1921, and the matter is now ready for opinion and order.

What the applicant desires to do in this proceeding can best be understood by quoting Exhibit No. 1, attached to and made a part of the application, and which sets forth the justification for the increases proposed:

> Prior to June 25, 1918, Pacific Coast Tariffs generally provided the same carload rate for petroleum road oil as was provided for petroleum crude oil, petroleum gas oil and petroleum fuel oil, viz: refinery residuum.
>
> Effective June 25, 1918, rates on all of the commodities before mentioned were increased 25 per cent, but under Freight Rate Authority No. 96 of the Director, Division of Traffic, United States Railroad Administration, this increase on petroleum products, classified fifth class in Western classification, was modified to 4½ cents per 100 pounds. As road oil was not classified fifth class in Western classification, the flat 4½-cent increase did not apply thereto, leaving the 25 per cent increase applicable. However, petroleum crude oil, petroleum fuel oil and petroleum gas oil were classified fifth class and, as a consequence, instead of the 25 per cent increase the 4½-cent flat increase applied. This left a discrepancy in a great many instances between the rates provided for petroleum road oil on the one hand and petroleum crude oil, petroleum gas oil and petroleum fuel oil, viz: refinery residuum, on the other hand.
>
> In the case of long hauls, the result was that road oil was subjected generally to higher rates than that provided for the other commodities mentioned, but for short hauls petroleum road oil was subjected to a lower rate than for the other oils.
>
> An exception to the Western classification is carried in Pacific Freight Tariff Bureau exception sheet and in some local tariffs on the Pacific Coast, providing an

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estimated weight of 7¾ pounds per gallon to apply on shipments of petroleum crude oil, petroleum gas oil, petroleum road oil, also petroleum fuel oil, viz: refinery residuum, when shipped in tank cars.

Originally, on the Pacific Coast, petroleum and petroleum products were divided into two groups, one consisting of crude and fuel oil, and the other group consisting of petroleum and petroleum products other than crude and fuel oil. At that time both crude and fuel oil were used for road-making purposes. Later on the refiners developed a product which they called "road oil" and another called "gas oil." These two additional products were included in the crude and fuel group for the reason that both the road and gas oil came into commercial competition with crude, crude oil being used extensively for road-making purposes and also for the same purpose as was gas oil. So that there was a commercial relationship between all four commodities known as petroleum crude oil, gas oil, fuel oil and road oil. As a consequence, the four products of petroleum were generally given the same rating and were moved at the same estimated weight, the result being that the transportation charges were relatively the same for all four products when shipped in tank cars.

Later, the refineries improved, for road-making purposes, the product known as road oil, and as this improvement advanced from time to time, crude oil was used less extensively on roads. At the present time it is safe to say that there is no crude oil or fuel oil used for road-making purposes, the only product of petroleum which is now used for that purpose being petroleum road oil and petroleum asphalt.

Therefore, the commercial relationship which formerly existed as between petroleum road oil and the other products in the group has now been entirely eliminated, and the reasons for according to road oil the same rate and estimated weight as for the other products do not now exist.

Along with the improvement, for road-making purposes, of the product known as road oil in recent years, the refiners have been marketing another product known as "petroleum liquid asphalt," which is also shipped in tank cars. The liquid asphalt proved to be a more superior article for road-making purposes than petroleum road oil, and as a consequence, the quality of road oil has been improved to such an extent that even an expert can not distinguish the difference between petroleum road oil and petroleum liquid asphalt.

The market value of the commodity ordinarily shipped as petroleum road oil today is practically the same as that of petroleum liquid asphaltum. Because of the similarity of the two commodities, as to inherent nature, uses and market value, exactly the same reasons for according to these two commodities (road oil and asphaltum) the same rate and estimated weight for transportation purposes now exist as formerly caused the same rate and estimated weight to be accorded to crude oil, fuel oil, gas oil and road oil. It follows that since there is now no commercial relationship between road oil on the one hand and petroleum crude oil, fuel oil and gas oil on the other hand, and that since there is a close relationship as between petroleum road oil and petroleum liquid asphaltum, that petroleum road oil should now be eliminated from the group "crude, fuel, gas and road oil" and instead thereof given the same weight and rate as is provided for petroleum liquid asphalt, when shipped in tank cars.

Because of their similarity as to the inherent nature, value, weight per gallon and use for which they are manufactured, the service performed in transporting a tank car of road oil is exactly the same as for transporting a tank car of petroleum liquid asphalt, and as a consequence, the freight charges should be the same for both commodities.

Petroleum road oil is classified in the consolidated classification as Class D, either in barrels, with a carload minimum of 30,000 pounds, or in tank cars subject to rule 35, which refers to gallonage capacity of the tanks.

Petroleum crude oil, gas oil, fuel oil—refinery residuum—are classified fifth class either in packages or in tank cars. It will thus be seen that petroleum road oil is classified at a lower class than the petroleum crude oil, gas oil, fuel oil—refinery residuum—and it is thereby evi-

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denced that the classification committee considered road oil generally entitled to a less rate than the other commodities named above.

Prior to June 25, 1918, Pacific Coast tariffs generally provided the same carload rating for petroleum road oil as was applied to crude oil, gas oil, fuel oil, viz: refinery residuum, and it was contended that petroleum road oil became disassociated with the crude oil grouping through application of freight rate authority No. 96 of the Director, Division of Traffic, United States Railroad Administration, and the 25 per cent increase by *ex parte* No. 74. Applicant gave as a reason for the grouping of road oil with crude, gas and fuel oils that in the beginning both crude and fuel oils were used for road-making purposes and that later on refiners developed a product which they called road oil, and with the improvement of that product crude oil was used less extensively on roads until "at the present time it is safe to say that there is no crude or fuel oil used for road-making purposes, the only product of petroleum now used for that purpose being petroleum road oil and petroleum asphalt." (Trans., page 5.)

For the reason stated above it was contended that the commercial relationship which formerly existed between petroleum road oil and the other products in the group has been entirely eliminated, while the evidence shows that large quantities of crude oil are used on roads either as crude oil comes directly from the earth in its natural state or after a simple dehydrating or topping process has been undergone and the residue may be a good fuel oil as well as a road oil. Therefore, it would seem there is still a very close relationship between all four commodities known as petroleum crude oil, fuel oil, refinery residuum and road oil.

It was further evidenced that at one time it was the impression that anything that was petroleum was equally good for road purposes. The applicant sets forth in his application that refiners have improved for road-making purposes the product known as road oil, but in answer to the question of whether or not the commodity now generally used as road oil is a higher class product than was previously used an expert chemical engineer stated:

A. It is a selected class, yes; it is a higher class for that purpose.
Q. More expensive?
A. Well, not necessarily more expensive, only it is selected.

Thus it will be seen that instead of using all kinds of petroleum oil as road oil, as previously done, at the present time only selected oils are used for road-making purposes, some of which are purely natural products, while others are processed either for the purpose of producing a road oil, or are the residue from refineries, and such road oil is not necessarily more expensive.

The application further sets forth that along with the improvement of road oil, refiners have been marketing another product known as

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petroleum liquid asphalt and that not even an expert can distinguish the difference between petroleum road oil and petroleum liquid asphalt. One of the applicant's witnesses (Trans., page 18) answered:

* * * your liquid asphaltum or your road oil solidifies at air temperatures. It is got to be put in the car hot, you can not get it in in any other way; it has to be applied to the roads hot, too.

Q. Do you know anything about the comparative value of liquid asphalt with solid asphalt?

A. Liquid asphalt and solid asphalt, petroleum asphalt, I suppose that is what you have reference to, is one and the same thing, there isn't any such thing—there isn't any difference between the liquid asphalt and the solid asphalt. The liquid asphalt is merely the solid asphalt hot. Sometimes they ship it in cars, tank cars, and sometimes they ship the same thing in barrels.

Q. It is your information that this product that is described as road oil solidifies when it cools off?

A. Yes, sir.

The Witness: Now understand me, in saying that, I do not mean what I described a while ago as road oil or as the oil they use on dirt roads. That stuff is not liquid asphalt, it is not—it is, properly it is either crude oil or else it is a refinery residuum and not refined down to create the same percentage of asphalt. It is just as easily describable as fuel oil. It is the same thing that is burned sometimes as fuel oil; that stuff does not solidify.

The application also sets forth "that even an expert can not distinguish the difference between petroleum road oil and petroleum liquid asphalt."

The evidence quoted above, offered by the witness for applicant, indicates that petroleum liquid asphalt and petroleum asphalt are one and the same commodity and solidify at air temperature. The protestants, through an expert chemical engineer, defining road oil, stated it is

A product of petroleum, either naturally or artificially prepared, and it will vary all the way from crude, depending on the use for which it is intended, up to a rather heavy product. If it has, say 70 per cent, of asphalt in it, it will be very liquid, practically the same as a great many crude oils. In fact, crude oil may be a road oil and a good one and much better than artificially prepared road oil, but if you want to use it for a little heavier work you require somewhat heavier road oil, and for still heavier work you require it still somewhat heavier.

The same witness defined asphalt as follows:

Asphalt is a nonoxidized bituminous hydro-carbon, which may be solid or semi-solid, and it may be either artificial or natural and its use, its consistency, depends on the use to which it is to be put. For paving purposes we usually have an asphalt of 40 or 60 penetration; it depends on the penetration, you see; then other requirements are that it must be soluble in the various solvents used, such as carbon, bisulphite and petroleum naphtha, to separate the petroleum and asphaltene; it must have limits of fixed carbon and it must be ductile, must be adhesive and must be a petroleum product or natural asphalt.

An oil producer, operating in Cat Canyon oil fields near Santa Maria, testified that they ship approximately 10,000 barrels of road oil per month, a great part of which is absolutely the natural product, containing 68 to 75 per cent asphalt as it comes from the earth and when a road oil of greater asphalt content is ordered they use the Trumble process in dehydrating and topping to bring the oil up to specifications.

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Witness for Tulare County testified they used, last year, approximately 20,000 barrels of road oil and the year before approximately 40,000 barrels of road oil, nearly all of which was the light type.

Witness from Orange County testified they used over 16,000 barrels of road oil last year, Riverside County 2500 barrels, and the city of Riverside 5700 barrels, all of which was of the light quality and of comparatively small asphalt content.

It will thus be seen from the definition of road oil that there is actually a commodity commercially known as road oil and that that same road oil moves in larger quantities. From the same source we conclude that asphalt is solid or semi-solid and witnesses corroborated the statement that asphalt can be liquid only when it is hot. It is therefore evidenced that the commodity known as road oil and used most extensively in certain territories is an entirely different product from petroleum liquid asphalt, which is only a trade name for solid asphalt when it is hot, as it has been definitely shown that road oil is fluid when it is cold and petroleum liquid asphalt is solid or semi-solid when it is cold.

On the other hand, there was no showing as to the volume of the movement, if there was any movement, of petroleum liquid asphalt. Furthermore, if liquid asphalt is asphalt only when it is hot, it is inconsistent to use such a designation in transportation.

Oil containing 80 per cent asphalt is fluid and a light road oil, and that same oil can easily be used for fuel oil, but the expert witness further stated that all fuel oils can not be adapted for road oil and that he would not term a substance asphalt, but would designate it road oil until it contained at least 99 per cent asphalt of a penetration of from 40 to 60. The expert witness agreed (Trans., page 78) that all road oil he knew about would be either crude or fuel oil or refinery residuum.

Corroborating the oil producer from Cat Canyon, a witness for protestants, who was also an oil producer and refiner, testified that he shipped last year, to one customer, nearly 100,000 barrels of road oil, using the produce as it came from the earth without any process or manufacture.

Further testimony (Transcript, page 109):

Q. Can you state whether or not crude oil has a higher or lesser value than road oil?

A. Well, crude oil, some crude oil, is much more valuable than a road oil, and then there is some crude oil which is much less valuable than road oil.

Here we have evidence that road oil may be more or less valuable than crude oil and still be a road oil.

It was further evidenced there is no difference in the rate of crude oils based upon their value. It was further testified that crude oil, such as is used as road oil, could not be distinguished from road oil,

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which is a by-product of the refinery, or refinery residuum, without technical analytical test.

Upon the fact that the evidence showed conclusively that the four products referred to cannot be distinguished one from the other except by analytical test, it therefore does not appear to be practicable to give them separate ratings. I recommend that this application be denied.

ORDER.

It is hereby ordered, that the application in this proceeding should be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of December, 1921.

DECISION No. 9887.

IN THE MATTER OF THE APPLICATION OF THE WINDSOR WATER WORKS FOR AN ORDER AUTHORIZING A DISCONTINUANCE OF SERVICE.

Application No. 7078.

Decided December 20, 1921.

WATER UTILITY—SERVICE, TO DISCONTINUE.—There being no other water system serving the community in question, it is held that it manifestly would be unfair to permit applicant to discontinue service.

CONSERVATION OF SUPPLY—METERS—ENFORCING RULES.—The decision points out that the water supply could be conserved and pumping costs reduced by installing meters and enforcing reasonable service rules.

FAIR RETURN.—Where a fair return is not being earned, the remedy is to apply for increased rates, rather than to seek to abandon service.

L. E. Fulwider, for Applicant.

BY THE COMMISSION.

OPINION.

The application in the above entitled matter alleges that the annual gross income received from the operation of the water system does not exceed the sum of three hundred dollars, which amount is inadequate to properly renumerate applicant for the service rendered and that the number of consumers served is decreasing. The Commission is therefore asked to authorize applicant to discontinue water service.

A public hearing was held at Windsor, before Examiner Satterwhite, at which all interested parties were given an opportunity to be present and be heard.

The Windsor Water Works is owned and operated by J. F. Philpott and supplies water to consumers in the town of Windsor, Sonoma County. The water is obtained from a well from which it is pumped

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into an eight thousand gallon storage tank and distributed by gravity through approximately thirty-six hundred feet of wrought iron pipe ranging from two and one-half to three-quarters of an inch in diameter. The number of consumers on January 1, 1920, was 15, and on August 1, 1921, 22 were being served.

This system was originally installed by J. S. Philpott, a brother of the applicant, in 1887, and was enlarged and extended in 1900. In 1908 it was sold to applicant for $650.

There is no other water system serving this community and those who do not take water from applicant obtain their supply from wells on their own premises. The evidence shows that the capacity of the well is not greatly in excess of ten thousand gallons per day, which necessarily limits the number of consumers who can be adequately served unless an additional source of supply is developed.

It would be manifestly unfair to permit the applicant to discontinue water service to the present consumers, leaving them with no means of obtaining water other than by drilling or digging their own wells.

The evidence shows that the water supply could be conserved and pumping costs correspondingly reduced by the installation of meters and by the proper enforcement of reasonable rules limiting and regulating the hours for lawn and garden irrigation. It was further shown that the system is not at present earning a fair return. It therefore appears that the proper remedy lies in an application for authority to increase rates, rather than for an abandonment of service.

ORDER.

Windsor Water Works having made application for authority to discontinue public utility water service, a public hearing having been held thereon and the matter having been submitted:

It is hereby found as a fact that public convenience and necessity require the continuance of the operation of this water system, and basing the order on the foregoing finding of fact and on the statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that the application be and it is hereby denied.

Dated at San Francisco, California, this twentieth day of December, 1921.

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DECISION NO. 9890.

JACK KINCAID ET AL.

vs.

REEDLEY TELEPHONE COMPANY.

Case No. 1599.

Decided December 20, 1921.

C. W. Tackaberry, for Complainants.
A. Terkel, for Defendant.

BY THE COMMISSION.

OPINION.

This complaint was filed against the Reedley Telephone Company by sixteen farmers who receive telephone service from the Reedley exchange over a through line owned and operated by the defendant, which is known as the Squaw Valley-Dunlap Line and over privately owned side lines running from the through line to the subscribers' premises.

The complaint alleges in effect that the defendant is not maintaining the above mentioned line in such condition that good telephone service can be rendered over same; that defendant has repaired the side lines at various times when they did not need repairs and rendered a bill to the subscribers for the work performed and that defendant has in some instances discontinued service to subscribers for non-payment of these repair bills.

The Commission is asked to make its order to the Reedley Telephone Company in the following matters:

1. Requiring it to repair the Squaw Valley-Dunlap Line so that good service may be rendered over same.

2. Requiring it to purchase all side lines at a reasonable amount, or

3. Enjoining it from interfering with the side lines and, in this connection,

4. Require complainants to keep their side lines in good condition and repair.

A public hearing was held by Examiner Satterwhite in Reedley on September 23, 1921, and the engineering department of the Commission made a report on the situation which was submitted at the hearing.

Testimony brought out the fact that the defendant had repaired the through line about the time the complaint was filed. The problem, therefore, resolved itself into the solution of the future maintenance and upkeep of the through and side lines.

The report of our engineers suggested several possible ways to rectify the present conditions. The defendant prefers to dispose of its entire equity in this line and have complainants fully responsible for the

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service. The complainants filed a resolution, passed September 28, 1921, adopting proposal No. 2 contained in the engineer's report which reads as follows:

> The (ownership of the) lines may be permitted to remain as at present with the Reedley Company fully responsible for the maintenance and operation of both the main and side lines. The subscribers would be required then to pay a monthly rate sufficiently high to defray this expense.

Inasmuch as the through line connects with the station called Dunlap and is the only means of securing toll communication with outside towns from the General Grant National Park and the Sequoia National Park, we feel that the company should be responsible for the continuance of this service.

We are convinced that the most feasible plan is that adopted by complainants and we have reached the conclusion that the rates for service on this line should be raised from $2 per month per station to $4 for residence service and from $2.25 per month per station to $4.25 for business service.

These rates shall remain in effect for one year, during which time defendant shall keep a record of the actual cost of maintaining the side lines and the main line. At the end of this period the reasonableness of the proposed rates may be determined and such changes made in them as are found advisable.

It will be necessary for both the complainants and the defendant to reconstruct their respective lines to the extent required to meet the standards of construction approved by this Commission for territory of this character. These standards will be furnished by the Commission.

ORDER.

Jack Kincaid et al., having made complaint in the above entitled proceeding, a public hearing having been held thereon, and the Commission being fully informed in the matter;

It is hereby ordered, that defendant shall reconstruct the so-called Squaw Valley-Dunlap Line to the extent necessary to comply with the standards of construction which the Commission will require for this line. This work shall be completed within ninety (90) days from the date of this order unless good cause is shown for an extension of time.

It is hereby further ordered, that ninety (90) days from the date of this order defendant may discontinue service to each complainant or other subscriber on this line who owns a side line unless side line has been reconstructed to the extent necessary to comply with the standards of construction which the Commission will require for these side lines, providing the main line reconstruction has been completed within this time and unless good cause is shown by the subscribers for an extension of time.

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It is hereby further ordered, that defendant is hereby authorized to file with this Commission within thirty (30) days from the date of this order a schedule of rates for service on this line as follows:

Business, wall, per month	$4 25
Residence, wall, per month	4 00
Desk telephones, per month additional	25

Upon approval these rates may be made effective after completion of the work hereinbefore specified, subject to such modification, if any, as the Commission may hereafter find to be reasonable.

It is hereby further ordered, that after completion of the reconstruction required by this order, defendant shall maintain both the main and the side lines and the station apparatus connected thereto, in such condition that good and efficient telephone service can be given over them. The monthly rental for service shall constitute the compensation for this work.

It is hereby further ordered, that defendant shall keep a record of the actual cost of maintaining the side lines and a record of the actual cost of maintaining the main line for a period of one year from the date of making the proposed rates effective. These records shall be in sufficient detail to permit a complete check to be made of them.

Dated at San Francisco, California, this twentieth day of December, 1921.

DECISION No. 9891.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION ON ITS OWN MOTION, INTO THE RATES, RULES, REGULATIONS AND PRACTICES OF LAKE HEMET WATER COMPANY WITH RELATION TO THE OPERATION OF ITS PUBLIC UTILITY WATER SYSTEM, THE SERVICE RENDERED BY SAID COMPANY, THE SUPPLY OF WATER AVAILABLE AND THE TERRITORY SERVED OR TO BE SERVED.

Case No. 1576.

Decided December 20, 1921.

WATER UTILITY—IRRIGATION WATER—DELIVERY OF.—The company is ordered to deliver water for irrigation on a monthly basis, making a proper adjustment on the bills if unable to furnish the full amount at scheduled time.

PUBLIC UTILITY WATER—REFUSAL TO DELIVER.—It is held that service of public utility water can not be made conditional upon the surrender by consumer to the utility of private water rights.

Henry Goodcell and *W. G. Irving*, for the Consumers.
Oliver P. Ensley, for the City of Hemet and William F. and Kate Riesland.
Hunsaker, Britt and Cosgrove, by *T. B. Cosgrove* and *John M. Clayton*, for Lake Hemet Water Company.

BY THE COMMISSION.

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OPINION.

This is a matter involving numerous informal complaints which have been filed with the Commission in regard to rates, rules, regulations, practices and service of the Lake Hemet Water Company, which company distributes water for irrigation purposes in the vicinity of Hemet, Riverside County.

It appearing to the Commission that the relief sought by complainants could not be obtained through informal proceedings, a formal investigation was instituted as above indicated, and a public hearing was held before Examiner Satterwhite at Hemet.

Briefs have been filed and the matter is now ready for decision.

For a detailed description of the Lake Hemet Water Company's plant, its history and other data relating to its operation, reference is here made to Decision No. 3804, dated October 21, 1916, in Application No. 1842, entitled, *In the matter of the application of Lake Hemet Water Company for an order establishing the rates to be charged and collected by it for water sold in the county of Riverside, State of California,* page 617, Vol. 11 of Opinions and Orders of the Railroad Commission of California; also to Decision No. 7441, dated April 19, 1920, in Application No. 4306, entitled, *In the matter of the application of Lake Hemet Water Company, a corporation, for an order increasing rates to be charged and collected by it, and for service rendered and to be rendered by it in furnishing water, in the county of Riverside, State of California,* page 88, Vol. 18 of Opinions and Orders of the Railroad Commission of California.

In the latter decision (No. 7441) the Commission fixed the following irrigation rates:

Minimum annually for 1/50 second-foot (miner's inch) or part thereof in the same proportion	$48 00
For each 1/50 second-foot per day (miner's inch day) or 1728 cubic feet	40

On February 8, 1921, the Lake Hemet Water Company filed with the Commission a revision of its Rule No. 16, which bases the minimum payment on the actual acreage to be irrigated, at the rate of one-eighth miner's inch per acre, cumulated for thirty-day periods. The evidence shows that since then the company has required the consumers to pay an annual minimum computed upon this basis. This practice works a hardship on any consumer who does not desire to use, or can not use, the amount of water represented by one-eighth miner's inch per acre continuous flow. It frequently requires the consumer to pay for something he can not use, and is obviously unfair. Further than this, it requires the company to hold in reserve enough water to supply these consumers, and results, at least at times, in certain other consumers being denied water which they can use to advantage and which is not

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available because other persons have been required to order more water than they desire to use. It appears that this rule should be revised so that the consumers can order water at the rate of one-sixteenth miner's inch per acre.

The evidence shows that the company has held that it had the entire calendar year in which to deliver the amount of water ordered by the consumers. In certain instances it has happened that the company has been unable to deliver the water during the irrigation season and then later in the season, when the flow in the streams had increased, was able to deliver all the water the consumers desired. Naturally at the end of the season the water is not of much value to the consumers as the crops are matured and any damage resulting from earlier lack of water is irreparable.

It appears that the amount of water ordered by any consumer should be delivered monthly, and if the company is unable to furnish it at the scheduled time it should make a proper adjustment in the bill. If the consumer does not desire the water at the scheduled time, it is then his loss and the company should not be held responsible.

Charlotte Allen, V. T. Allen, Astrid Calvert and W. A. Calvert complained that the Lake Hemet Water Company had refused to deliver public utility water to them for the reason that they took what is known as "Fairview Appurtenant Water." This is water obtained through the ownership of stock in the now defunct Florida Water Company.

The testimony of Mr. C. Knight, secretary and treasurer of the Lake Hemet Water Company, was to the effect that it is the custom of the company to refuse to sell public utility water to those in the Fairview Tract who have first exercised their contract rights to "Fairview Appurtenant Water." The company did not take the stand that these consumers were not within its service area nor did it claim that it did not have a sufficient supply.

It appears that the company accepted payment for public utility water and then, upon the consumer using his portion of the "Fairview Appurtenant Water," it returned the money deposited and refused to deliver any public utility water. It is also apparent that this procedure was carried out in order to force water users to surrender their contracts and become public utility consumers.

It is obvious that the service of public utility water can not be made conditional upon the transfer by a consumer of his private water rights to the utility, and this practice should be discontinued.

After a careful consideration of all the evidence it is plain that in fairness to the consumers the company should make certain changes in its rules and regulations.

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ORDER.

The Railroad Commission having instituted an investigation as entitled above, a public hearing having been held, and the matter having been submitted:

It is hereby found as a fact that certain of the rules, regulations and practices of Lake Hemet Water Company result in injustices to its consumers.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that the Lake Hemet Water Company be and it is hereby directed to deliver, subject to reasonable and non-discriminatory rules and regulations, public utility water to Charlotte Allen, V. T. Allen, Astrid Calvert and W. A. Calvert for use on their lands within the Fairview Tract, regardless of whether or not they have exercised their contract rights to "Fairview Appurtenant Water."

It is hereby further ordered, that Lake Hemet Water Company file with this Commission within thirty (30) days of the date of this order, an amendment to its Rule No. 16, now on file with this Commission, the amended rule to read as follows:

Rule 16.

No delivery of water, including temporary water, will be made in any year until the minimum rates provided in these rules have been paid. The minimum payment will be based upon the actual acreage to be irrigated, at the rate of one-sixteenth miner's inch per acre, cumulated for thirty-day periods. The amount of minimum establishes the allowable "head" cumulated in thirty days. The amount of minimum payment shall be determined by application to be made each year. If any person shall apply for a quantity of water and pay therefor the minimum upon a basis of a less acreage than an entire tract, and shall actually apply the water to more land than covered in the application, an additional minimum payment shall become immediately due and payable to the company covering such increased use of water, in addition to any other penalty provided in these rules.

The minimum payment, as in these rules provided, establishes the applicants' maximum deliverable quantity of water during each irrigation season. Water delivered between January 1 and March 15, and between October 11 and December 31 of each year shall be ordered by the "run" and paid for at the rate of 40 cents per miner's inch day, and such payments shall not apply on the minimum payment.

Temporary service of water may be applied for by consumers subject to the aggregate requirements of the company, as established under these rules, and if water be then available, service shall be made at the same rate as herein provided, but such service shall be regarded as temporary and not determinative of any continuing right.

As long as available in each season, temporary water will be delivered to those applying in the order of application and payment of the minimum, and in case of shortage apportioned equitably, subject to rulings of the Commission.

Non-use of amount scheduled for delivery in one thirty-day period and covered by minimum payment, will not entitle consumer to an increased head in succeeding months.

In case the company is unable to deliver the water as scheduled, a proper adjustment shall be made in the consumer's bill.

Dated at San Francisco, California, this twentieth day of December, 1921.

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Decision No. 9892.

IN THE MATTER OF THE APPLICATION OF WESTERN MOTOR TRANSPORT COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO STAGE LINE FOR TRANSPORTATION OF PASSENGERS BETWEEN RODEO-LIVERMORE, AND INTERMEDIATE POINTS.

Application No. 5274.

IN THE MATTER OF THE APPLICATION OF WALTER WILLIAMS, ALBERT PIETRONAVE AND PERCY L. BLISS, DOING BUSINESS UNDER THE FICTITIOUS NAME AND STYLE OF BAY SHORE STAGE COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO STAGE LINE FOR TRANSPORTATION OF PASSENGERS BETWEEN OAKLAND AND MARTINEZ.

Application No. 5361.

Decided December 20, 1921.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY—FRANCHISE.—A certificate of public convenience and necessity is held to be distinctly different from the grant of a franchise to use and occupy streets. The former is strictly a regulatory measure, while the latter is a grant of a limited property right for the use of public streets, and may have nothing to do with regulation of the utility to which such grant is made.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY—CONSIDERATIONS—COMPETITION.—Many considerations enter into a determination of whether or not such certificate should be granted. Important among these is the extent to which the communities proposed to be served are already provided with means of transportation by other public utilities. Under regulation, the power to protect from unnecessary competition a public utility which is doing its full duty to the public, is correlative to the power to require reasonable rates and adequate service.

OPERATING ROUTES—INTERMEDIATE AND ULTIMATE TERMINI.—The finding by the Commission that public convenience and necessity require operations between the various termini of the component parts of a through route, is declared not the same thing as finding that public convenience and necessity require the operation between the ultimate termini of the through route itself.

OPERATIVE RIGHTS—COMBINING FOR THROUGH SERVICE.—It is held that operative rights under certificates separately granted can not be lawfully combined for the establishment of a through service without first obtaining from the Commission a certificate of public convenience and necessity authorizing the through service.

Sanborn and Roehl, by *H. H. Sanborn*, and *DeLancy C. Smith*, for Western Motor Transport Company.
Jesse H. Steinhart, for San Francisco-Sacramento Railroad.
Arthur L. Levinsky, for Central California Traction Company.
John T. York, for San Francisco, Napa and Calistoga Railway Company.
Clarence M. Oddie, for American Short Line Railway Association.
Harry A. Encell and *H. W. Kidd*, for Motor Transit Company.
Frank Karr, for Pacific Electric Railway Company.
D. J. Hall, for City of Richmond.
E. J. Sinclair, for Ward's Auto Bus Line.
Morrison, Dunne and Brobeck, by *Herbert W. Clark*, for San Francisco-Oakland Terminal Railways.
Warren E. Libby, for Pickwick Stages and White Star Auto Stages.
Rollin L. McNitt, for Hamilton and Wilson, Lusby Lines.
E. E. Rodabaugh, for Boulevard Express.
J. E. McCurdy and *Charles F. Wren*, for Pickwick Stages, Northern Division.

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N. C. Folsom and *F. D. Howell*, for Motor Transit Company and Motor Carriers' Association.
F. B. Austin and *L. N. Bradshaw*, for Southern Pacific Company.
J. E. McCurdy, for Motor Carriers' Association.
A. L. Whittle, for San Francisco-Oakland Terminal Railways.
E. W. Camp and *Paul Burks*, for The Atchison, Topeka and Santa Fe Railway Company.
Jesse H. Steinhart and *John J. Goldberg*, for San Francisco-Sacramento Railroad.

LOVELAND, *Commissioner*.

OPINION AND ORDER DENYING REHEARING.

Under Application No. 5274, the Western Motor Transport Company applied for a certificate declaring that public convenience and necessity require the operation by said Transport Company of an auto stage between Rodeo and Livermore and certain named intermediate points.

Under Application No. 5361, certain individuals operating as partners under the name of Bay Shore Stage Company, sought similar authorization to operate between Oakland and Martinez.

The two applications were combined for hearing and decision, and by the Commission's Decision No. 7340 the prayer of both applicants was granted, subject to certain conditions and limitations, which are unnecessary to notice here.

Prior to obtaining this operative right between Rodeo and Livermore, the Western Motor Transport Company had obtained an operative right between Oakland and Rodeo, hence, it was apparent that by combining these two routes, it became physically possible to establish a through operation between Oakland and Livermore and intermediate points. The terms of the Commission's Decision No. 7340 did not expressly authorize such through operation, neither did it expressly prohibit it. However, the San Francisco and Sacramento Railroad, a protestant in the proceeding, anticipating the possibility of such through service which would involve competition with its line, filed a petition for rehearing and a request for modification of the certificate granted under Decision No. 7340, by an express condition prohibiting the linking up of the new route with the old one, so as to put in a competitive through service. This protestant also urged that similar conditions be imposed upon a certificate granted to the Bay Shore line. The issue was thus presented to the Commission of whether or not operating rights over the component parts of a through route can be linked up by the holder of such rights for the purpose of instituting a through service without application first having been made to the Commission and authorization obtained for such through service.

The Commission held special hearings for the consideration of this question at both San Francisco and Los Angeles, in which Application No. 5928 was joined because a similar issue had developed in that pro-

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ceeding. This proceeding, Application No. 5928, had no other connection with the matters now under discussion, and will not be further referred to herein. The principles herein set forth, however, may be considered applicable to the decision in that case.

In addition to oral argument had upon the question of whether or not the parts can be combined to make a through service, briefs were filed on behalf of applicant and San Francisco-Oakland Terminal Railways, the San Francisco and Sacramento Railroad and Southern Pacific Company. The matter, therefore, has been fully presented.

The correct determination of the question here involved depends in large measure upon a correct understanding of the legal significance of a certificate of public convenience and necessity granted by the Commission to transportation companies. It has been contended that this certificate operates to grant a right similar to a franchise held by street railroads to use and occupy streets, and it was further urged that the transportation companies would have the same right to link up their operative rights under certificates that railroads have to extend their lines by combining different franchises linking up the rights granted thereunder to occupy different streets within a city. This argument proceeds upon an erroneous assumption, and the result reached by it is not sound. The certificate of public convenience and necessity is distinctly different from the grant of a franchise to use and occupy streets. The former is strictly a regulatory measure, while the latter is a grant of a limited property right for the use of public streets, and may have nothing whatever to do with regulation of the utility to which such grant is made. The distinction between the two was clearly indicated by the Supreme Court in its decision in the case of *Oro Electric Corporation* vs. *Railroad Commission,* 169 Cal. 466. In that case the court was considering a certificate of public convenience and necessity granted by the Commission under section 50(*a*) of the Public Utilities Act, to an electric company desiring to extend its lines into the city of Stockton. The particular issue was whether the granting of this certificate would impair the right of the city of Stockton to grant a franchise to such company. At page 475 of the opinion the court says:

> Before proceeding to an analysis of these provisions [the charter of the city of Stockton] it will be well to refer briefly to the distinction, drawn by counsel against the petitioner between a franchise or grant of a right to engage in the business of furnishing electric current, and the narrower grant of a right to occupy the streets of the city in carrying on that business * * *. The granting or withholding of the certificate is an exercise of the power of the state to determine whether the rights and interests of the general public will be advanced by the prosecution of the enterprise which it is proposed to carry on for the service of the public. (See *People* vs. *Willcox*, 207 N. Y., 86, etc. * * *.) This is an entirely different question from that of the local control of the streets, and power over the two subjects may well be vested at the same time in different governmental bodies, without the one in any way clashing with or interfering with the other. The Railroad Commission might grant a certificate authorizing a public utility to engage in its

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business in a given city, but the certificate would not authorize the use of the streets, unless the right to so use them had been given by the authority vested with the power to grant such right.

The foregoing quotation from the decision in the *Oro* case is particularly in point by reason of the fact that the provisions of the Auto Stage and Truck Transportation Act as originally enacted (Statutes 1917, chapter 213) vested the two powers above referred to in different governmental bodies. Under section 3 of the act of 1917, cities and counties were given the power of local control of the streets and highways to be used by transportation companies. At the same time, under the provisions of section 5 of that act, the Railroad Commission was given the power of determining whether or not it was in the interest of the general public that the enterprise of carrying persons or property as a transportation company should be prosecuted over the highways as to which the local authorities granted the right of use.

By the amendment of 1919 (Statutes of 1919, chapter 280), section 3 of the act was repealed, thus eliminating all powers theretofore vested in local authorities by virtue of this act to grant or withhold the right to occupy the streets of the particular locality for the purpose of operating a transportation company. There remained, and still remains, vested in the Railroad Commission, the power of granting or withholding a certificate declaring that public convenience and necessity require the proposed operation of such transportation company. As pointed out by the court in the above quoted decision, this is an exercise of the power of the state to determine whether the rights and interests of the general public will be advanced by the prosecution of the enterprise which it is proposed to carry on for the service of the public. Many considerations enter into a determination of whether or not such certificate should be granted. Important among these is the extent to which the communities proposed to be served are already provided with means of transportation by other public utilities. Under regulation, the power to protect from unnecessary competition, a public utility which is doing its full duty to the public is correlative to the power to require reasonable rates and adequate service.

In granting a certificate, the Railroad Commission must find and declare that public convenience and necessity require the operation by the applicant of an auto stage between fixed termini or over a regular route. The finding by the Commission that such public convenience and necessity require operations between the various termini of the component parts of a through route, is not the same thing as finding that public convenience and necessity require the operation between the ultimate termini of the through route itself. To illustrate by using the facts of this case: The Commission having found that public convenience and necessity require the operation of an auto stage from

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Oakland to Rodeo, and granted certificate therefor, and by a later proceeding found and declared that public convenience and necessity required the operation of a transportation company between Rodeo and Livermore, it can not be soundly contended that the Commission has, in effect, found and declared that public convenience and necessity require the operation of an auto stage from Oakland to Livermore. In considering the proposed operation from Oakland to Rodeo, and from Rodeo to Livermore, no consideration at all may have been given to the necessity or convenience of an operation from Oakland to Livermore. Thus an existing operative right between Oakland and Livermore by the more direct route, which does not pass through Rodeo, might be seriously affected by a new operation through Rodeo, yet in the granting of the certificates from Oakland to Rodeo, and Rodeo to Livermore, no opportunity would be given to this existing carrier to present protest and introduce evidence showing that the traveling public between Oakland and Livermore are adequately and well served by the existing means of travel.

We think it is clear from what has been shown that operative rights under certificates separately granted can not be lawfully combined for the establishment of a through service without first obtaining from the Railroad Commission a certificate of public convenience and necessity authorizing the through service. In the practical application of this legal requirement it is to be borne in mind that the Commission's powers are of sufficient latitude to meet any variety of circumstances that may be presented. Section 5 of Chapter 213, Statutes of 1917, as amended, provides:

> The Railroad Commission shall have power, with or without hearing, to issue said certificate as prayed for, or to refuse to issue the same, or to issue it for the partial exercise only of said privilege sought and may attach to the exercise of the rights granted by said certificate such terms and conditions as, in its judgment, the public convenience and necessity may require.

When the establishment of a through service by the linking up of local operations is the sole object sought to be obtained by an application, due consideration must, of course, be given to this circumstance as one factor in determining public convenience and necessity. In some instances it may be unnecessary to hold a hearing, but in all cases it is necessary—and the act clearly provides—that the Commission, as a regulatory body of the state, shall first determine, after a consideration of all the facts and circumstances, that public convenience and necessity require the operation before any service may be undertaken different from that originally authorized.

It is recognized that the present operations of many transportation companies may be affected by this decision. Therefore, in the interest of constructive regulation, the Commission will allow a reasonable time

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within which application for certificates of public convenience and necessity may be filed to place all operations on a basis consistent with the principles herein laid down. This will be done by a general order or other proper measure outside of the present proceedings. It is referred to here, however, for the purpose of making clear the attitude of the Commission in laying down the basis for subsequent application of the law as herein interpreted.

In the proceedings here under consideration, the Commission was asked to grant a rehearing for the purpose of modifying its prior order by imposing an express restriction against the possible future linking up of local operations to form a through route. In view of what has been said, such express inhibition is unnecessary. In the absence of such express authorization, the linking up and combining of local operations is not lawful. The petition for rehearing will, therefore, be denied.

ORDER.

It is hereby ordered, that the petition filed herein by the San Francisco and Sacramento Railroad on April 22, 1920, for a rehearing and for modification of the order heretofore made herein on April 3, 1920, be and the same is hereby denied.

The effective date of this order is hereby fixed and designated as the tenth day of January, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of December, 1921.

DECISION NO. 9893.

IN THE MATTER OF THE SERVICE AND RATES RENDERED BY SOUTHERN CALIFORNIA TELEPHONE COMPANY IN THE PALMS DISTRICT OF THE CITY OF LOS ANGELES AND IN CULVER CITY, LOS ANGELES COUNTY, CALIFORNIA.

Case No. 1538.

Decided December 20, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission having on September 14, 1921, issued its Decision No. 9516 in the above entitled proceeding ordering Southern California Telephone Company among other things to at once proceed with the construction and installation of such plant and equipment, if any, in addition to that at present available for the purpose and to complete such construction and installation and place in service a

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local central office telephone exchange in Culver City and Palms area within a period not to exceed ninety (90) days from said date, unless for good cause shown the Commission may grant such extension of time as to it may appear to be reasonable and proper and may issue its supplemental order providing therefor; and Southern California Telephone Company having on December 12, 1921, advised the Commission that it will be unable to complete said construction and installation within the time specified and having asked for an extension of time for the completion of said work to January 15, 1922, and it appearing to the Commission that the extension of time therein requested should be granted;

It is hereby ordered, that the time within which Southern California Telephone Company shall complete said construction and installation is extended to January 15, 1922.

Dated at San Francisco, California, this twentieth day of December, 1921.

DECISION NO. 9895.

IN THE MATTER OF THE APPLICATION OF D. H. MALEY AND E. W. SULLIVAN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE EXPRESS FREIGHT SERVICE BETWEEN STOCKTON AND MANTECA.

Application No. 6264.

THE WHITE LINES
vs.
D. H. MALEY AND E. W. SULLIVAN.

Case No. 1507.

Decided December 20, 1921.

MOTOR EXPRESS SERVICE—CERTIFICATE, WHEN NOT REQUIRED—SCHEDULES AND TARIFFS.—While the legislature provided that motor carriers operating prior to May 1, 1917, are not required to obtain a certificate, it is held that as common carriers they are subject to the regulatory powers of the Commission and must file their operating schedules and tariffs.

W. J. Quinn, for The White Lines.
L. N. Bradshaw, for Southern Pacific Company.
W. J. Griffith, for American Railway Express Company.
Clifton E. Brooks, for D. H. Maley and E. W. Sullivan.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Stockton upon above application for authority to operate on automotive express and freight service between Stockton and Manteca, and upon above case involving the legality of the operations of said Maley and Sullivan, both matters being consolidated for hearing and decision.

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It appears from the testimony that Messrs. Maley and Sullivan began operation March 23, 1917, and have continued without interruption to date, making one, two or three trips per day. Their headquarters is at Manteca, their equipment is kept there and all of their patrons live there. Their business consists almost wholly of hauling freight for Manteca business men from Stockton wholesale houses. It appears from the testimony that they have always operated under so-called contracts, by which their patrons employ them to haul freight at fixed rates per hundred pounds. These contracts were oral and were made with practically all of the business interests of Manteca, and were not reduced to writing until November, 1920, when a printed form of such contract was entered into between Maley and Sullivan and their respective patrons. Nineteen of them are attached to the application as exhibits. Applicants also do general trucking, making special trips from time to time under special arrangements to various other points and also to Stockton at very early hours to procure ice and ice cream to deliver in Manteca by 6 a.m.

The service appears to have been begun in good faith at a time when it was not necessary to procure preliminary certificate of public convenience and necessity from the Railroad Commission before entering upon such service. Chapter 213, Statutes of 1917, provides that those operating in good faith prior to May 1, 1917, need not procure such certificate.

At the hearing, applicants requested that they be authorized to serve as contract carriers.

The testimony does not show any conditions which would justify relieving applicants in any particular from the obligation which they appear to have assumed prior to May 1, 1917, to operate as common carriers. When the business was established they agreed orally to carry freight at fixed rates per hundred pounds, solicited business upon this basis, and appear to have procured as patrons most of the shippers in Manteca, they having attached to the application nineteen contracts with Manteca shippers providing for the hauling of "goods, wares, merchandise, etc., perishable and otherwise * * * and * * * to make at least three trips weekly on Monday, Wednesday and Friday, and daily trips during the months of May, June, July, August and September; also to make more frequent trips at any time when the amount of goods, wares or merchandise shall warrant." The testimony is to the effect that, in fact, daily trips have been made almost from the beginning. The testimony, oral and written, does not disclose any traffic condition which can not be met by operation as common carrier, or for service under abnormal conditions or at unusual hours, unless it be for the handling of ice and ice cream for delivery in Manteca by 6 a.m. The contracts submitted do not provide for this service, the only provision as to time being that commodities consigned to Manteca

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patrons, delivered at Stockton by river boat freight carriers, shall be delivered in Manteca not later than 11 a.m. of the day of receipt in Stockton.

It appears from the testimony that The White Lines carry goods southbound from Stockton at 5 a.m., making delivery in Manteca about 6 a.m., and apparently could handle the ice and ice cream business.

The application was filed because of uncertainty in the minds of applicants as to whether or not they were legally entitled to continue operation. While the legislature provided that they need not procure a certificate, yet, as common carriers, they are subject to the regulatory powers of the Commission and should have seasonably filed their operating schedules and tariffs. The Commission made every effort to reach every carrier in the State of California with request for such filing shortly after the statute became effective, but no such filing was made by these applicants. The result was that when The White Lines, or their predecessors of that organization, sought a certificate, they were given operative rights to and through Manteca in the absence of knowledge on the part of the Commission that Maley and Sullivan existed or claimed operative rights, and naturally the latter could not be notified of the hearing or given opportunity to be heard.

Under the circumstances, it appears to be better practice, in the absence of proper filings and in view of apparent uncertainty as to whether applicants should operate as common carriers or special contract carriers, that the application be granted rather than dismissed as unnecessary in view of the time when operations began.

ORDER.

A public hearing having been held upon the above entitled application and case, and both matters being submitted and ready for decision;

The Railroad Commission hereby declares that public necessity and convenience require the continued operation by D. H. Maley and E. W. Sullivan, under the co-partnership name of Maley and Sullivan, of an automotive through truck service as a common carrier of freight between Stockton and Manteca, not serving any intermediate points.

The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

No vehicle may be operated in said service unless said vehicle is owned by the applicants herein or is leased by said applicants under a contract or agreement satisfactory to the Railroad Commission.

It is hereby ordered, that applicant shall, within fifteen days from the date hereof, file with the Railroad Commission their schedules and

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tariffs covering said proposed service, which shall be in addition to proposed schedule and tariff accompanying the application, and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operation is extended by formal supplemental order.

The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

It is hereby further ordered, that the complaint of The White Lines in Case No. 1507 be and it is hereby dismissed.

Dated at San Francisco, California, this twentieth day of December, 1921.

DECISION NO. 9903.

IN THE MATTER OF THE APPLICATION OF THE MONTEREY, SAN FRANCISCO EXPRESS COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE CONTRACT MOTOR TRANSIT EXPRESS SERVICE BETWEEN SAN FRANCISCO AND/OR SAN JOSE AND SAN JUAN, SALINAS, MONTEREY, PACIFIC GROVE, CARMEL CITY AND CARMEL HIGHLANDS AND INTERLOCALLY BETWEEN SAN JOSE, SALINAS, MONTEREY, PACIFIC GROVE, CARMEL CITY AND CARMEL HIGHLANDS.

Application No. 7186.

Decided December 20, 1921.

MOTOR CARRIERS—CONTRACT CARRIERS.—It is held that the Statute of 1919 does not provide for a special class of so-called contract carriers, permitting discrimination as between shippers. The Statute of 1919, it is pointed out, extended the regulatory powers of the Commission to all those "engaged in the business of transportation of persons or property for compensation over any public highway in this state between fixed termini, or over regular routes, not operating exclusively within the limits of incorporated cities or towns."

SPECIAL COMMODITIES—SEASONAL OPERATIONS.—It is pointed out that those desiring to carry special commodities or desiring to engage in seasonal operations, can be authorized to operate as common carriers of these commodities under appropriate limitations or conditions.

F. A. Treat, for Applicant.
L. N. Bradshaw, for Southern Pacific Company and American Railway Express Company.
A. C. Campbell, for Fred Wermuth.

BY THE COMMISSION.

OPINION.

Public hearings were held by Examiner Westover at Monterey upon the above application to operate express truck service *under contract* between San Francisco, Monterey and Salinas, and points south of San Jose, and locally between San Jose and San Juan, Salinas, Monterey, Pacific Grove, Carmel and Carmel Highlands, service to be rendered one round trip daily, six days per week.

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Witnesses testified to need of better service for the accommodation of poultry shippers on the route about two miles from Monterey, general service for Carmel Highlands, an expedited service for newspapers to Monterey and Salinas, bread and meat to Monterey, and fresh fish from Monterey.

The poultry shippers referred to would have the advantage of a pick-up and delivery service at their plants, and believe that they would secure the advantage of a prompt weighing of live poultry on arrival at San Francisco wholesale houses. They have been assured by applicants that drivers making deliveries would wait and see the poultry weighed. It is alleged that at present the San Francisco dealers keep poultry two or three days without food or water, then weigh them and make settlement.

The proposed service leaving San Francisco at 9 p.m., as shown by amended schedule filed by leave since the hearing, would be too early to carry the week-end editions of the San Francisco morning papers dated the following day. The week-day editions are now carried by train leaving San Francisco at 2 a.m., and arriving at San Jose at 3.50 a.m. Those for points farther south leave on train No. 78 at 8 a.m. the following morning, reaching Monterey about noon. Sunday editions leave on train No. 110 at 8.15 p.m. and are met at Del Monte Junction at 11.44 p.m. by the Monterey distributors. As the proposed service, under its amended schedule, would leave San Jose at 1.30 a.m., over two hours before the week-day editions arrive at San Jose and would reach Monterey about six hours later than the Sunday editions now arrive there, it is clear that the proposed service would not be available for handling San Francisco newspapers.

The present express service is rendered by American Railway Express Company, operating seven round trips daily over the lines of the Southern Pacific Company, with free pick-up and delivery at practically all points. San Juan and Carmel are served by stages meeting each train. Monterey is served daily by four trips southbound and three trips northbound. The bulk of the business is handled by train leaving San Francisco at 8.15 p.m. and arriving at Monterey at 7 a.m. the following morning. Applicant now proposes to leave San Francisco at 9 p.m. and arrive at Monterey at 6.30 the following morning. The express company delivers locally by horse and wagon, while the applicant proposes to transfer shipments and deliver locally by truck. It does not clearly appear from the testimony that applicant would be able to improve the local delivery service.

In addition to the present express service between Monterey and Carmel, there is an authorized truck service operated regularly by Fred Wermuth between those points. He also makes special trips when

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needed between Carmel and Carmel Highlands, a distance of about five miles. Several witnesses testified to the excellence and dependability of his service and that he makes deliveries at night and on Sundays when required for the accommodation of his patrons.

Applicant herein previously applied, by Application No. 6736, for authority to operate an express service as a *common carrier* between all of the points above referred to, except Carmel and Carmel Highlands, and except that the service now proposed between Salinas and Monterey is via Castroville instead of direct. The previous application also sought authority to serve in addition the territory lying between San Juan and Santa Cruz and that between Salinas and King City. At the hearing upon the former application considerable testimony was introduced concerning the need of facilities for shipping fresh fish from Monterey to San Francisco late in the afternoon after the fishermen come in.

Before the former application was finally submitted, the express company had instituted such a service to be operated over the Southern Pacific lines by train then leaving Monterey at 6.25 p.m. At the hearing herein, it developed that this new express service, which had been put on May 1, was withdrawn July 22 for lack of patronage. There had also been some complaint that shippers were required to deliver fish to the express company at the mainland end of the wharf. Applicant proposed to take the fish from shippers' locations on the wharf.

So far as the oral testimony herein is concerned, it shows only a need for improved service for the handling of fresh fish from Monterey and poultry and poultry products from territory adjacent to Monterey, and authority to operate such limited service as common carriers will be found in the order herein.

However, applicants have procured certain tentative contracts (subject to procuring authority from the Commission) for the handling of goods in the territory in question. These contracts provide for northbound shipments, in above territory, one of cheese from Carmel, one of fish and abalones from Monterey, two of poultry and poultry products from near Monterey, and service for two shippers at San Juan, above shipments being estimated at a total of about 5000 pounds daily. The list of shippers and receivers of goods so contracting contains five in San Francisco shipping meat and bread, four at San Juan, five at Salinas, four on the highway near Monterey, twenty-four at Monterey, two at Pacific Grove, and four at Carmel and Carmel Highlands. The estimated southbound movement is also about 5000 pounds per day. These estimates of tonnage, however, are supplied only in an exhibit filed after the hearing and pursuant to stipulation made at

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the hearing. It is not claimed that the estimates of tonnage show prospective business with any degree of accuracy, as contracting shippers in most instances were not present and testifying, and the figures are offered merely as estimates by those who had talked with shippers.

It was not shown by these documents or the persons who signed them that the present service is inadequate to the needs of the community or that they had any criticism of the manner in which the service is rendered, nor of particulars in which it can be improved. Most of those signing the contracts were not present for examination or cross-examination on above points or others, nor was it shown what induced the signatures. It has frequently developed in other hearings that those signing petitions or resolutions or documents requesting authority for certain applicants, find that the proposed service, as developed by the testimony at such hearings, could not be used by such petitioners or others similarly situated, and that it would not prove even a convenience in many instances.

Applicants' previous Application No. 6736 for authority to operate as a common carrier was very fully presented, numerous witnesses were examined, and after careful consideration of all the evidence the application was denied. The only material difference in form between the previous and the present applications is that applicants now seek to operate "under contracts" which provide that applicants shall carry all of the shipments of signers for a fixed term at scheduled rates. If granted, this would enable them at their option to serve only a selected class composed of such contract holders, although still nominally under the regulation of the Commission as to such class. The proposed service would not be available to the general public.

A misapprehension seems to have arisen as to the intent of the amendment to the statute at the 1919 session of the legislature. It seems to be assumed that the intent was to provide, in addition to regulation of common carriers, regulation of a class which has come to be known as "contract carriers," operating under contracts for the carriage of goods, even though these contracts might, for illustration, be discriminatory in terms as between different contract shippers, or might result in limiting carrier's facilities to present equipment or to operation at his convenience, or enable him to confine his service to a limited selected class, thus discriminating between shippers, or in other manner to restrict the nature and therefore the value of his service to the community; and that all that is necessary to procure authority to act as a contract carrier is procure and present such contracts. We are satisfied that such was not the intent of the legislature, but rather to extend the regulatory powers of the Commission by the amendment. to *all* those "engaged in the business of transportation of persons or

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property for compensation over any public highway in this state between fixed termini, or over regular routes not operating exclusively within the limits of incorporated cities or towns," but excepting taxicabs, hotel busses or sightseeing busses. Public necessity and convenience rather than the private convenience or benefit of the carrier or shipper must still be shown. The method of proof is not changed by the amendment.

It has not yet been found necessary in the course of such regulation to separate into classes those placed by the legislature under the Commission's jurisdiction. Those desiring to carry special commodities, such as milk, and those desiring to engage in seasonal operations, such as carriage of fruits, can be authorized to operate as common carriers of those commodities under appropriate limitations or conditions.

It appearing from the testimony that the traffic situation in and about Monterey having so changed since the hearing of the previous Application No. 6736, that there is now a public necessity and convenience to be served by applicants as common carriers of fish and abalones, poultry and poultry products, such service is authorized by the order herein.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and now ready for decision:

The Railroad Commission hereby declares that public convenience and necessity require the operation by S. M. Trotter, F. D. Warnock, A. C. Hinkle, and Geo. A. Hartz, as copartners, of an automotive express service, under the fictitious name of The San Francisco-Monterey Express Company, between San Francisco and Monterey and points on the highway for a distance of five miles easterly of Monterey, for the common carriage of fresh fish, abalones, poultry and poultry products, and poultry feed, equipment, and supplies for delivery to or from poultry ranches along the highway to be traversed by applicants within a distance of five miles easterly from Monterey.

The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

No vehicle may be operated in said service unless said vehicle is owned by the applicants herein or is leased by said applicants under a contract or agreement satisfactory to the Railroad Commission.

It is hereby ordered, that applicants shall, within fifteen days from the date hereof, file with the Railroad Commission their schedules and tariffs covering said proposed service, which shall be in addition to proposed schedule and tariff accompanying the application, and shall

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set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operation is extended by formal supplemental order.

The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

Dated at San Francisco, California, this twentieth day of December, 1921.

DECISION No. 9908.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF MODESTO GAS COMPANY, ON THE COMMISSION'S OWN MOTION.

Case No. 1662.
Decided December 21, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, Modesto Gas Company has filed with this Commission, in accordance with Decision No. 9839 in the above entitled matter, under date of December 10, 1921, an affidavit setting forth that on account of the change in shipment of oil it has been able to reduce the price of oil f.o.b. Modesto by the amount of $0.148 per barrel below the price theretofore in effect; and

Whereas, in Decision No. 9839 in the above entitled matter it was directed that Schedules "A" and "B," established by Decision No. 7581, in Application No. 5513, be amended so that the same would be subject upon approval of the Railroad Commission of the State of California to increase or decrease on the basis of 2.6 cents per thousand cubic feet of gas for each 10 cents per barrel increase or decrease, respectively, in the price of oil above or below the price of $2 per barrel f.o.b. Modesto, such change to be to the nearest one cent;

It is hereby ordered:

1. That the rates as set forth in Decision No. 7581, in Application No. 5513, and as amended in Decision No. 9839, in Case No. 1662, be and they are hereby reduced 4 cents per thousand cubic feet, effective for all meter readings taken on and after the tenth day of January, 1922.

2. That Modesto Gas Company file with this Commission on or before the tenth day of January, 1922, a revision of the schedules to comply with this order.

Dated at San Francisco, California, this twenty-first day of December, 1921.

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DECISION NO. 9909.

IN THE MATTER OF THE INVESTIGATION OF GAS RATES SERVICE, AND OPERATIONS OF THE CONTRA COSTA GAS COMPANY, ON THE COMMISSION'S OWN MOTION.

Case No. 1653.

Decided December 21, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, Contra Costa Gas Company has filed with this Commission, in accordance with Decision No. 9752 in the above entitled matter, an affidavit setting forth that on the fifteenth day of November, 1921, the price to be paid for oil was reduced eight cents (8c) per barrel below the price of $1.64 per barrel, as set forth in Decision No. 9725; and

Whereas, in Decision No. 9725 in the above entitled matter it was provided that the schedules of rates Nos. 1 and 3 established therein would be subject to increase or decrease on the basis of three cents (3c) per thousand cubic feet for each ten cents (10c) change in the price of oil paid upon approval of the Railroad Commission of the State of California, such change to be to the nearest one cent;

It is hereby ordered:

1. That the rates as set forth in Decision No. 9725 in Case No. 1653 be and they are hereby reduced two cents (2c) per thousand cubic feet, effective for all meter readings taken on and after the fifteenth day of December, 1921.

2. That Contra Costa Gas Company file with the Commission on or before December 31, 1921, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twenty-first day of December, 1921.

DECISION NO. 9910.

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN HOME TELEPHONE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING SAID COMPANY TO ESTABLISH CERTAIN INCREASED RATES, TOLLS, RENTALS AND CHARGES.

Application No. 6398.

Decided December 21, 1921.

Max Thelen, for Applicant.

F. A. Leonard, City Attorney, and *A. E. Brock*, President, Board of Trustees, for City of Redlands.

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B. N. Pratt, *William Collier* and *S. H. Burton*, for subscribers of Elsinore and vicinity.
W. H. Pauson and *Burdette Raynor*, for Hemet Chamber of Commerce.
A. E. McDowell, for subscribers in Little Lake District.

BRUNDIGE, *Commissioner*.

OPINION.

Southwestern Home Telephone Company, applicant in this proceeding, owns and operates telephone exchanges serving the cities and towns of Redlands, San Bernardino County, and Banning, Beaumont, Elsinore, Hemet, Perris, San Jacinto and Temecula, Riverside County, and adjacent territory. The application as originally filed sets forth that the rates now in effect do not yield revenue sufficient to meet actual and reasonable maintenance and operating expenses, together with a reasonable depreciation annuity and to yield a fair return on the fair value of the property, used and useful, in the public service. The Commission is asked to make its order authorizing applicant to establish rates set forth in the application amounting to an increase of 33⅓ per cent over the present rates.

Public hearings were held in Redlands on April 5 and in Los Angeles on July 1, 1921.

At these hearings applicant filed a number of exhibits, among which are statements of claimed investment, together with statements of receipts and expenditures for the year 1920, and of estimated receipts and expenditures for the year 1921 under the proposed rates, the purpose of these exhibits being to show the necessity for increasing the present rates. The investment claimed by applicant is based on an inventory prepared by it during the year 1914, to which net additions to December 31, 1920, have been added. The engineering department of the Commission has also made and presented a valuation report in which the valuation is found considerably lower than that claimed by the applicant.

At a conference held on November 26, 1921, between representatives of the applicant and of the Railroad Commission it was agreed that the company and the Commission's engineering department should each submit a statement setting forth their different views relative to the valuation of the applicant's property. It was also agreed at this conference by reason of the fact that the company and the Commission's engineering department do not agree as to what the fair value of this property is and particularly since applicant admits that it will be unable to establish and collect rates sufficient to yield a fair return on what it considers a fair valuation of its property that it would submit modified schedules in lieu of those originally set out in its application. The statements and modified schedules have since been submitted and the matter is now ready for decision.

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The valuation found by the engineering department of the Commission and shown by the valuation report previously referred to was $382,297. This valuation is on an historical reproduction cost undepreciated. After conference with representatives of the company, the Commission's engineering department has made corrections to the original figure resulting from certain additions and deductions, bringing the original valuation up to $392,148, as shown by the engineering department's statement above referred to. The company's statement of comparable items shows a valuation of $491,735.51, to which is added an item of $12,761 for materials and supplies and a further item of $7,000 for working capital, making a total of $511,496.51, which is the amount now claimed by applicant as a proper rate base. In comparison, the items appearing in these two statements are as follows:

	Statement of Engineering Dept.	Statement of company
Physical property	$374,442 00	$418,860 86
Development expenses	3,883 00	60,612 00
Franchises, contracts and rights of way	1,062 00	12,262 65
Materials and supplies	12,761 00	12,761 00
Working capital		7,000 00
Totals	$392,148 00	$511,496 51

The amounts shown in the statements of the engineering department are below those of the company in the items and to the extent following:

Physical property	$44,418 86
Development expenses	56,729 00
Franchises, contracts and rights of way	11,200 65
Working capital	7,000 00
Total	$119,318 51

This difference in valuation of physical property arises chiefly from the fact that the company's appraisal is based on unit costs representing average prices of labor and material prevailing in 1914, the year during which its plant was inventoried, while those applied by the Commission's engineers are average historical costs obtained in most cases from the company's voucher records.

The amount claimed by the company for development expense, according to its statement, is the amount which has been carried on its books. The amount allowed in the engineering department's statement for this item is one per cent of the total of physical property, franchises, contracts and rights of way, and materials and supplies.

The amount claimed by the company for franchises, contracts and rights of way, as its statement shows, is also the amount appearing on its books for these items. It appears on the statement of the Commission's engineers that there are two items included in the company's

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claim as follows: one item of $1,000 covering a contract for the joint occupancy of poles entered into during the year 1914 and growing out of a controversy between the applicant and the Southern Sierras Power Company, concerning the use of certain streets for the location of their respective lines; the other, an item of $10,200, covering a contract with The Pacific Telephone and Telegraph Company for the purchase of property from the Pacific Company by the applicant and for the interexchange of service between the contracting parties. In each of these two transactions the expenses involved are capitalized by the company in its statement, and in connection with the latter transaction, there appears an issue of $10,000 par value of bonds to Mr. C. D. Rolfe for his services in this transaction, this amount being included as a capital charge in the company's claim. The sum claimed by the company for these two contracts, $11,200, is not included in the statement of the Commission's engineers.

The amount claimed by the company for working capital, $7,000, is an amount which it claims represents substantially one month's operating expenses to which it urges it is entitled for working capital. A statement of the Commission's engineers disallows this item on the theory that since the company collects its rates in advance and the revenues thus collected being in excess of its monthly operating expenses it is not entitled to any claim for working capital.

I do not consider it necessary for the Commission to come to a decision in this proceeding on the merits of the disputed items of the valuation. It may be stated, however, that the valuation of this property was made by the Commission's engineering department under the same methods and following the same general rules as have been adopted and approved by the Commission in all public utility valuations for rate making purposes. There is no doubt, I believe, that the Commission would disallow, if the matter had to be decided, the capitalized value of the contract with The Pacific Telephone and Telegraph Company (since the expenses arising from that contract to applicant are allowed in operating expenses) and would also disallow, for rate making purposes, the item of development expense. These matters do not appear to be of controlling importance, however, because, as will be shown hereunder, the rates proposed will produce for applicant a fair return on a reasonable investment or valuation figure.

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The rates at present in effect and those which the applicant now desires to make effective, in so far only as increases in present rates now being sought are involved, are as follows:

	Business service, monthly rate		Residence service, monthly rate	
	Present wall set	Proposed wall set	Present wall set	Proposed wall set
Redlands Exchange.				
One-party line	$4 25	$5 25	$3 25	$4 60
Two-party line	3 75	4 50	2 50	3 00
Four-party line	3 75	4 50	2 50	3 00
Eight-party line	3 75	4 50	2 50	3 00
Suburban line			3 50	4 00
Employees			1 50	1 75
San Jacinto and Hemet Exchanges.				
One-party line	3 25	4 00	2 75	3 00
Four-party line	2 75	3 50	2 25 (Block 1)	2 50 Block 1
Eight-party line (Block 2)	2 75	3 50	2 25	2 50
Eight-party line (Block 3)	3 00	3 75	2 50	2 75
Eight-party line (Block 4)	3 25	4 00	2 75	3 00
Eight-party line (Block 5)	3 50	4 25	3 00	3 25
Eight-party line (Block 6)	3 75	4 50	3 25	3 50
Mountain Lines.				
Oak Grove and Idyllwild	3 75	4 50	3 25	3 50
Winchester line	3 25	4 00	2 75	3 00
Employees			1 50	1 75
Perris Exchange.				
One-party line	3 25	3 75	2 75	3 00
Four-party line	2 75	3 25	2 25	2 50
Eight-party line (Block 2)	2 75	3 25	2 25	2 50
Eight-party line (Block 3)	3 00	3 50	2 50	2 75
Eight-party line (Block 4)	3 25	3 75	2 75	3 00
Suburban line (Block 5)			2 75	3 00
Employees			1 50	1 75
Elsinore Exchange.				
One-party line	3 25	3 75	2 75	3 00
Four-party line	2 75	3 25	2 25	2 50
Eight-party line (Block 2)	2 75	3 25	2 25	2 50
Eight-party line (Block 3)	3 00	3 50	2 50	2 75
Eight-party line (Block 4)	3 25	3 75	2 75	3 00
Employees			1 50	1 75

For desk sets in place of wall sets add 25 cents per month to each of the rates quoted above.

The rates quoted above are gross monthly rates. Discounts from each of the above rates for advance payment are allowed as follows:

For monthly payments made on or before the tenth day of the current month, $0.25.

For quarterly payments in advance on or before the tenth day of the first month of the quarter for which payment is made, $1.00.

If paid annually in advance, $4.50.

Applicant has presented with its proposed schedule of modified rates shown above an estimate of the increase in gross revenues which it would derive for these rates over actual gross revenues for the year 1920, this estimate being based on the stations actually in service on

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November 1, 1921. The amount of revenue increase shown by this estimate after deducting 1½ per cent for temporary loss of subscribers and for regrading of subscribers following the proposed increase in rates is $14,514. It does not, however, take into account any increase in revenue through possible growth of the business. Undoubtedly there should be some allowance made for the purposes for which this 1½ per cent has been deducted, but consideration should also be given to such increases in revenue as may result from a growth in business. Conditions are such in the territory in which applicant operates that in our opinion the growth in business to be expected will be limited, and this view is supported by applicant's experience in former years. It seems reasonable to assume, however, that the growth in business will at least be sufficient to offset the temporary loss of 1½ per cent for which applicant has made allowance in its estimate. On this basis the amount of revenue increase resulting from the proposed rates would be $16,059.

The actual gross revenues and operating expenses exclusive of depreciation reported by the company for the year 1920 were $111,918.36 and $74,261.92, respectively. During the four months of the year from September 1 to December 31, 1920, operators' salaries were higher than during the first eight months of the year. This item of operating expense will therefore be greater in 1921 than it was in 1920. The amount paid out for taxes in 1921 is also greater than the amount paid out during 1920. Estimated operating expenses for 1921, taking 1920 expenses as a basis after allowing for necessary increases in operators' salaries and taxes and after certain deductions (consisting of an adjustment in charges to accidents and damages and to automobile hire) to which applicant has agreed have been made will amount to $74,190.65. After allowing one-half of one per cent of gross revenues for uncollectible revenues and adding to operating expenses 3.3 per cent of the value of the depreciable property found by the Commission's engineers for depreciation annuity, this addition of $16,059 for gross revenues would leave a net income of $40,245.83. This amount would be equivalent to a return slightly in excess of 10 per cent on the valuation found by the Commission's engineers, plus $7,000 for working capital, or 7.7 per cent on the company's valuation.

On the basis above referred to, as to operating expenses and depreciation, the rates hereinafter suggested should yield a return of 8.24 per cent on the valuation found by the Commission's engineers, had the Commission allowed the company's claim for $7,000 for working capital, or 6.4 per cent on the company's valuation. Under the circumstances in this case, it is our opinion that rates which will yield this amount of net return are reasonable.

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The rates suggested are as follows:

	Business service, monthly rate wall set	Residence service, monthly rate wall set
Redlands Exchange.		
One-party line	$5 00	$3 75
Two-party line	4 25	2 75
Four-party line	4 25	2 75
Eight-party line	4 25	2 75
Suburban line		3 75
Employees		1 75
San Jacinto and Hemet Exchanges.		
One-party line	3 75	2 75
Four-party line	3 25	Block 1 2 25
Eight-party line (Block 2)	3 25	2 25
Eight-party line (Block 3)	3 50	2 50
Eight-party line (Block 4)	3 75	2 75
Eight-party line (Block 5)	4 00	3 00
Eight-party line (Block 6)	4 25	3 25
Mountain Lines.		
Oak Grove and Idyllwild	4 25	3 25
Winchester line	3 75	2 75
Employees		1 75
Perris Exchange.		
One-party line	3 50	2 75
Four-party line	3 00	2 25
Eight-party line (Block 2)	3 00	2 25
Eight-party line (Block 3)	3 25	2 50
Eight-party line (Block 4)	3 50	2 75
Suburban line (Block 5)		2 75
Employees		1 75
Elsinore Exchange.		
One-party line	3 50	2 75
Four-party line	3 00	2 25
Eight-party line (Block 2)	3 00	2 25
Eight-party line (Block 3)	3 25	2 50
Eight-party line (Block 4)	3 50	2 75
Employees		1 75

For desk sets in place of wall sets add 25 cents per month to each of the rates quoted above.

The following order is recommended:

ORDER.

Southwestern Home Telephone Company having applied to the Railroad Commission for an order authorizing said company to establish certain increased rates, tolls, rentals and charges; public hearings having been held; the case having been submitted, and the matter being now ready for decision;

It is hereby ordered, that Southern Home Telephone Company be and it is hereby authorized to publish and file with this Commission within thirty (30) days from the date of this order and to make effective on and after January 1, 1922, the schedule of rates set forth in

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the opinion preceding this order as suggested rates, subject to the conditions following:

1. The rates herein authorized shall be subject to the same discounts for advance payment as are at present in effect.

2. All of the rates and all of the rules and regulations affecting rates now in effect other than those provided for in the schedule herein authorized shall be continued in effect until or unless otherwise authorized by the Commission.

3. Efficient and adequate telephone service shall at all times be provided to all subscribers.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of December, 1921.

DECISION NO. 9911.

IN THE MATTER OF THE APPLICATION OF THE PULLMAN WATER COMPANY FOR AUTHORITY TO INCREASE RATES FOR DOMESTIC WATER SERVICE.

Application No. 7301.

Decided December 23, 1921.

WATER UTILITY—READINESS TO SERVE CHARGE—MONTHLY MINIMUM CHARGE.—It appears that on this system the present form of rate, consisting of service charge, plus a charge for water used, is not generally understood by the consumers and is frequently a source of discord. In this case, the present form of rate is eliminated and the new schedule computed on a monthly minimum charge.

C. A. Odell and *Faulkner and Faulkner*, for Applicant.
D. J. Hall, for City of Richmond.
John A. Miller, for certain consumers.

BENEDICT, *Commissioner*.

OPINION.

In this proceeding the Pullman Water Company, owned by Fred Myers, asks authority to increase rates for water supplied to consumers in Richmond and vicinity, Contra Costa County.

The application alleges in effect that the present rates, established by this Commission in its Decisions No. 7494, No. 7905 and No. 8591, do not yield sufficient revenue to cover maintenance and operating expense, an allowance for depreciation, and a reasonable return upon the investment. The Commission is asked to authorize the collection of the following rates:

A "ready to serve charge," per month	$1 00
For all water used, in addition to the "ready to serve charge," per 100 cubic feet	50
Unmetered or flat rate charge, per month	2 00

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A public hearing was held at Richmond, of which all interested parties were notified and given an opportunity to be present and to be heard.

This water system consists of four pumping plants, about 144,000 feet of distribution mains, ranging in size from 2 inches to 4½ inches in diameter, and two tanks for storage and regulation of the supply. There are 317 consumers served, 58 per cent of whom are metered.

Applicant did not present an appraisal of the property but based his entire case upon the reports of the Commission's engineers, filed in previous proceedings in which the utility was involved.

Mr. C. H. Monett, one of the Commission's hydraulic engineers, presented a report which stated in effect that the system was so largely overbuilt that a return based upon the entire original cost of the system would result in a rate beyond the ability of the consumer to pay. His estimate of a reasonable rate base for the purpose of this proceeding, after giving consideration to the overbuilding of the plant and the compensation received for piping certain real estate subdivisions, was $18,350. Depreciation annuity was calculated by the sinking fund method at 6 per cent and amounts to $689, while a reasonable maintenance and operating expense was shown as $4,983.

The total annual charges, based upon the foregoing figures, are $7,140, while the revenues for the year 1920 amounted to $4,953. It is, therefore, evident that applicant is entitled to an increase in rates.

In order to produce the foregoing annual charges, the present rates would have to be increased an average of 44 per cent and would place too heavy a burden upon the water users, therefore the rate schedule set out in the accompanying order is designed to do substantial justice to both the utility and the consumers.

The present schedule of rates in effect is as follows:

Monthly meter rates.

Service charge—	
For each meter in use	$0 50
Quantity rates—	
From 0 to 50,000 cubic feet, per 100 cubic feet	23
Over 50,000 cubic feet, per 100 cubic feet	19

Monthly flat rates.

For residences of not more than five rooms with one bath and toilet	1 40
For each additional room	10
For each additional bath or toilet	15
For each private barn, with not more than one horse or cow	50
For each additional horse or cow	20
Private boarding houses, for each boarder in addition to the family	10
Irrigation of lawns, shrubbery, gardens, etc., per 100 square feet	03
Stores or shops, according to size	$1 00 to 3 00
Municipal fire hydrants, 2-inch and larger	1 00
Sewer flushing, street sprinkling and all other municipal use at the meter rate.	

It appears that on this system the present form of rate, consisting of service charge plus a charge for water used, is not generally under-

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stood by the consumers and is frequently a source of discord and does not promote harmonious relations between the utility and the consumers. Under the circumstances I believe it advisable to eliminate the present form of rate and to compute the new schedule upon the basis of a monthly minimum charge.

I submit the following form of order:

ORDER.

The Pullman Water Company having made application in the above entitled matter, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Pullman Water Company for water delivered to its consumers are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates for such service;

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Pullman Water Company be and it is hereby ordered and directed to file with this Commission within twenty days from the date of this order the following schedule of rates to be charged for water delivered to its consumers, such rates to be effective for all service rendered subsequent to January 31, 1922:

Schedule of Monthly Meter Rates.

Monthly minimum charges:	
For ⅝-inch meters	$1 50
For ¾-inch meters	1 75
For 1 -inch meters	2 00
For 1½-inch meters	3 00
For 2 -inch meters	4 00
For all water used:	
From 0 to 5000 cubic feet, per 100 cubic feet	40
Over 5000 cubic feet, per 100 cubic feet	36
Monthly flat rate schedule:	
For residences of not more than five rooms	1 25
For each additional room	10
For each bath tub or toilet	25
For each private barn, with not more than one horse or cow	50
For each additional horse or cow	25
For each private garage, with not more than one automobile	35
For each additional automobile	25
Private boarding houses, for each boarder in addition to the family	10
Irrigation of lawns, shrubbery, gardens, etc., per 100 square feet	04
Stores or shops, according to size	$1 25 to 3 00
Municipal fire hydrants, 2-inch and larger	1 00
Sewer flushing, street sprinkling, and all other municipal use at the meter rates.	

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1921.

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DECISION No. 9913.

IN THE MATTER OF THE APPLICATION OF W. D. GREER, OWNING THE W. D. GREER STAGE LINE, TO SELL, AND CHARLES A. HARE TO PURCHASE, EQUIPMENT AND OPERATIVE RIGHTS AUTHORIZING THE OPERATION OF AUTOMOBILE STAGE SERVICE BETWEEN BAKERSFIELD, FAMOSO, LOST HILLS, PISMO, AND INTERMEDIATE POINTS, AND BETWEEN TAFT, McKITTRICK, LOST HILLS AND INTERMEDIATE POINTS.

Application No. 7388.

Decided December 23, 1921.

MOTOR TRANSPORTATION—OPERATIVE RIGHTS—SPECULATION THEREIN.—The practice of speculating in operative rights is condemned. The Commission announces that it will look with disfavor upon any application to transfer an automobile stage or truck line wherein the consideration to be paid for the intangible property rights is of such amount as to appear not warranted under the circumstances.

H. A. Lovcland, for Applicant.

BY THE COMMISSION.

OPINION.

In the application entitled as above W. D. Greer, doing business under the fictitious name of W. D. Greer Stage Line, and Charles A. Hare, jointly petition the Railroad Commission for an order authorizing W. D. Greer to sell, and Charles A. Hare to purchase, certain operative rights at present owned by W. D. Greer, authorizing the operation of an automobile stage line, together with equipment, office furnishings, etc., used in such business.

A hearing was held upon the above entitled application before Examiner Satterwhite on December 15, 1921, at San Francisco at which time the matter was submitted and it is now ready for decision.

The operative rights herein proposed to be transferred include the following:

Decision No. 7352, in Application No. 5029, authorizing W. D. Greer to operate an automobile stage line as a common carrier of passengers, package and express between Pismo, San Luis Obispo County, and McKittrick, Kern County, via Paso Robles, Shandon and Lost Hills, but prohibiting the transportation of passengers between Pismo and Paso Robles and intermediate points.

Decision No. 7511, in Application No. 5530, authorizing the Western Auto Stage Company, Incorporated, to transfer to W. D. Greer operative rights authorizing the operation of automobile passenger service between the city of Taft, Kern County, and San Luis Obispo and Pismo Beach, San Luis Obispo County.

Decision No. 7735, in Application No. 5564, authorizing W. D. Greer to operate an automobile stage line as a common carrier of through passengers and baggage between Lost Hills and Bakersfield, but prohibiting the operation of local service between Lost Hills, Wasco and Bakersfield.

Decision No. 7917, in Application No. 5922, authorizing W. D. Greer to operate automobile passenger service between Lost Hills, Associated Camp, General Petroleum Camp and Belridge Camp.

Decision No. 8568, in Application No. 6247, authorizing W. D. Greer to operate an automobile stage line as a common carrier of passengers between Lost Hills, Wasco, Bakersfield and intermediate points.

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Decision No. 9442, in Application No. 6832, authorizing W. D. Greer to operate an automobile stage line as a common carrier of passengers between Fellows and McKittrick, serving as intermediate points Santa Fe Camp, American Oil Fields and Shale.

Consideration to be paid for the property herein proposed to be transferred is given as the sum of $18,000 divided as follows: Equipment $8,000, office furniture, fixtures, etc., $4,000, good will and franchises $6,000. The application states that the equipment consists of two Packard automobiles. This was later amended by testimony of applicant to include in addition thereto one Cadillac eight. Applicant testified that the value of the Cadillac was $3,500 and the value of the two Packard machines approximately $2,250 each. Furniture, fixtures, etc., include sign boards, tickets, desks, stamping machines and miscellaneous office equipment and supplies at present owned by W. D. Greer and distributed among the twelve stations which he operates in connection with his present service.

Applicant Greer testified that the Commission authorized the Western Auto Stage Company, Inc., to transfer to him their operative right between McKittrick and Pismo for the sum of $6,000; that under the present proceeding, he proposes to sell not only such operative right, but such additional rights as he has acquired before and subsequent to such transfer for like amount. This sum to include all prepaid local licenses, motor vehicle licenses, taxes, etc., covering his entire present operation.

There is no question but that the consideration to be paid for the property herein proposed to be transferred is in excess of the actual value of the physical property. This fact was called to the attention of the proposed purchaser at the hearing in this proceeding at which time it was explained to him that the consideration paid by the purchaser of public utility property was in no way binding upon this Commission as a measure of value for rate fixing or any other purposes. Irrespective of such fact the proposed purchaser, who is a public accountant in the city of Bakersfield, stated that he had audited the books of accounts of the W. D. Greer Stage Line for the past two years and was perfectly willing to purchase such properties under the above conditions.

The Commission desires to call attention at this time to a condition which has developed in the motor carrying industry wherein it appears that applications are filed with this Commission for franchises authorizing the operation of either passenger or truck lines; that the applicants do not intend to engage in such business in good faith, but merely to acquire a certificate, operate the service for a limited period of time until a purchaser can be found who will not only pay a reasonable value for the actual physical properties proposed to be transferred,

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but a considerable amount in addition thereto for the operative rights, which operative rights were granted by the state to the original applicant without charge. Such practice must be stopped, as no dependable transportation system can ever be established when individuals are permitted to speculate in operative rights authorizing the establishment and operation of transportation lines. The Commission will hereafter look with disfavor upon any application to transfer an automobile stage or truck line wherein the consideration to be paid for the intangible property rights is of such amount as to appear not warranted under the circumstances surrounding its original acquisition, but finds it difficult to lay down a hard and fast rule, preferring rather to judge of each application upon its own statement of facts.

ORDER.

A hearing having been held in the above entitled application, evidence submitted and the Commission being fully advised;

It is hereby ordered, that the above entitled application be and the same hereby is granted subject to the following conditions:

1. That the consideration to be paid for the property herein proposed to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value for rate fixing or any purposes other than the transfer herein authorized.

2. That applicant W. D. Greer, owning the W. D. Greer Stage Line, shall immediately cancel all tariff of rates and time schedules now on file with the Railroad Commission, such cancellation to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

3. That applicant Charles A. Hare shall immediately file tariff of rates and time schedule, in duplicate, in his own name, or adopt as his own the tariffs and time schedules heretofore filed with the Railroad Commission by applicant W. D. Greer, all rates and time schedules to be identical with those filed by applicant Greer.

4. That the rights and privileges herein authorized to be transferred may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. That no vehicle may be operated by the applicant Charles A. Hare, unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-third day of December, 1921.

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DECISION NO. 9914.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA GAS COMPANY FOR AUTHORITY TO INCREASE RATES.

Application No. 6442.

Decided December 23, 1921.

GAS UTILITY—SEGREGATION OF INVESTMENT AND OPERATING EXPENSE—EFFECT ON RATES.—Where a utility serves two communities under different conditions of cost of investment and service, a segregation of cost may be justified. In this case it is held that the city of Santa Maria is entitled to some benefit on account of its nearness to the oil fields from which gas is obtained.

RATES—COMPETITION.—While it is held that competition is not in general an advisable thing, it is pointed out that in the present case Santa Maria Gas Company can not expect to have its rates unreasonably raised when it had been willing in the past, under competitive conditions, to operate at a lesser charge.

C. L. Preisker, City Attorney, for the City of Santa Maria.
Chickering and Gregory, by *Evan Williams*, for Santa Maria Gas Company.
C. P. Kaetzel and *W. T. Shipsey*, for City of San Luis Obispo.

BY THE COMMISSION.

OPINION ON REHEARING.

On August 31, 1921, this Commission rendered its Decision No. 9443 in the matter of the application of Santa Maria Gas Company for increase in rates, establishing new and increased schedules of rates to be effective October 1, 1921. On September 16, 1921, the city of Santa Maria filed its petition for rehearing in the above entitled application, alleging that the rates fixed for the sale of domestic gas as set forth in Schedule No. 1 in Decision No. 9443 for service in the city of Santa Maria are in excess of reasonable rates which should be charged for the service in said city, requesting that rehearing be granted and the Decision No. 9443 be vacated and that rates be established for the city of Santa Maria based upon the cost of rendering service by the Santa Maria Gas Company. On September 29, 1921, the Commission issued an order granting the petition for rehearing and ordering that during the pendency of the proceedings on said rehearing the enforcement of the order in Decision No. 9443 be stayed upon the following terms and conditions, to wit:

1. The applicant shall be entitled to collect from its consumers rates in accordance with the schedules set forth in said order, and, in event of a modification of said rates upon rehearing, applicant shall refund to its consumers the excess, if any, of the amounts thus collected above the rates determined upon rehearing.

The city of Santa Maria does not question in its petition for rehearing the total return which the Commission found that Santa Maria Gas Company was entitled to receive but urges that the rate for domestic service charged in the city of Santa Maria is in excess of a reasonable rate and should be reduced. As a basis for its petition for rehearing the city of Santa Maria urges: that it is located much closer to the oil fields from which the natural gas is obtained than is San Luis Obispo

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or the territory adjacent thereto; that the gas company's investment and operating expenses for serving the Santa Maria district are much lower than required in the San Luis Obispo district and that the small differential in rates between the two districts as fixed by the Commission in Decision No. 9443 does not reasonably reflect the differential in cost of service. The rates fixed for domestic service in Decision No. 9443 were, for the city of Santa Maria, five cents per thousand cubic feet less than for the city of San Luis Obispo.

A segregation of the investment of the Santa Maria Gas Company chargeable to the two districts made by the Commission's engineers and submitted at the time of the application for rehearing, showed a materially lower investment per consumer chargeable to the Santa Maria district than in the San Luis Obispo district. It was pointed out, however, that the gas system in the Santa Maria district was in general constructed at a time of relatively low costs and was constructed of second-hand pipe, thus making the investment considerably lower than were new pipe installed. This condition is requiring much greater expenditures for maintenance and replacement at this time in the Santa Maria district than in the San Luis Obispo district. Estimates were also submitted of the cost of gas service in the two communities based upon a segregation of capital and a segregation and proration of operating expenses between the two districts. These tables show that upon the segregation submitted, if these be considered as the only measure of the differential in rates, the average domestic rates for the Santa Maria district should be $1.16 and for the San Luis Obispo district $1.33, a total difference upon an arbitrary segregation of costs of 17 cents. These amounts were obtained by deducting from the total segregated cost of service the estimated revenue to be received from the sale of gas for industrial purposes, rates for which are largely dependent on the price of oil or other competitive fuels and the service to which is secondary to the domestic and commercial service.

Representatives of the city of Santa Maria submitted exhibits at the hearing on petition for rehearing making a different segregation of the investment and operating expenses. Based upon the segregation made by the city of Santa Maria it was urged that the average cost for the Santa Maria district for domestic service would be approximately 82 cents per thousand cubic feet and for San Luis Obispo $1.62. In the segregation made the representatives of the city of Santa Maria have apparently gone to the extreme in attempting to charge all possible costs to San Luis Obispo. On the basis of Santa Maria's contention that it does not question the total return, its suggestion herein is that the city of San Luis Obispo rates should be raised approximately 60 per cent and its rates should be reduced.

The city of Santa Maria is entitled to some benefit on account of its nearness to the oil fields from which the gas is obtained. It probably

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should not be required to pay more than it could reasonably be required to pay were it served entirely separate and distinct from the service to San Luis Obispo. To any extent that the rates are less than this amount, due to the combination of the two services, the city of Santa Maria is benefited. Sound public policy, however, does not sanction such a proposal as made by Santa Maria.

Further study of the estimates submitted by the Commission's engineers shows that an error was made in estimating the revenue to be received from industrial sales, the average rate used for 144,000,000 cubic feet estimated being 28 cents. These sales covered 60,000,000 cubic feet to San Joaquin Light and Power Corporation's steam plant at 15 cents per thousand cubic feet, 60,000,000 cubic feet to industrial consumers at approximately 30 cents per thousand cubic feet, and 24,000,000 to Union Sugar Company at 21 cents per thousand cubic feet. The average price to be received is, therefore, 22 cents instead of 28 cents per thousand cubic feet. Making the correction for this item and the addition of $2,400 for pipe line rentals brings the average rate to be received from the sale of gas for domestic and commercial purposes to $1.30 per thousand cubic feet for the entire territory—$1.22 for Santa Maria district and $1.365 for San Luis Obispo district, based on the Commission's engineers segregation.

It appears that with the exception of the correction above made and the possible segregation of certain items of transmission capital and operating expenses the divisions of cost made by the Commission's engineers are reasonable. The segregation as to operating expenses in general gives to Santa Maria the benefit of the larger business resulting from the serving of greater territory.

The estimates submitted by the city of Santa Maria are found not to represent a fair and unbiased view of the situation. On the basis suggested by the city of Santa Maria any reduction in the rates in Santa Maria must result in an increase in rates in the San Luis Obispo district, and it is very apparent that the representatives of the city of Santa Maria are willing that this occur.

We conclude that an average revenue of $1.22 per thousand cubic feet is reasonable for domestic and commercial gas service in the Santa Maria district, and that no real prejudice will be suffered by that district under such rates. The rates for domestic and commercial service for the city of Santa Maria will be reduced 5 cents per thousand cubic feet for the first 15,000 cubic feet per meter per month below that heretofore fixed. With this reduction the average rate of $1.22 per thousand cubic feet will be obtained.

The rates in San Luis Obispo will not as at present fixed give Santa Maria Gas Company a full return on the property chargeable to that district.

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Santa Maria Gas Company of its own volition entered San Luis Obispo and charged a rate of $1 per thousand cubic feet for domestic service for several years in competition with another company. It apparently of its own free will saw fit to purchase the properties of the other company. The territory was at that time receiving good service under competitive conditions at the rate of $1 per thousand cubic feet. Santa Maria Gas Company does not guarantee to give any better service to the public than they have been receiving. Although competition is not in general an advisable thing, Santa Maria Gas Company can not expect to have its rates unreasonably raised when it had been willing in the past, under competitive conditions, to operate at a lesser charge. It is its duty to operate under the rates heretofore fixed by the Commission in Decision No. 9443 for service in San Luis Obispo, which we find are all that reasonably should be charged at this time for the service, and increase its return by increased efficiency and increased sales of gas.

ORDER.

The city of Santa Maria having filed petition for rehearing in the above entitled matter, rehearing having been granted and the matter having been submitted and being now ready for decision:

The Railroad Commission hereby finds as a fact that the rates for domestic gas service of the Santa Maria Gas Company in the city of Santa Maria, set forth in Decision No. 9443 as Schedule No. 1, should be revised and modified as set forth herein, and that Schedule No. 1 set forth herein is a just and reasonable schedule of rates for domestic gas service in the city of Santa Maria, and that the rates set forth in Decision No. 9443 or as modified and on file with the Commission at this time other than Schedule No. 1 are just and reasonable rates to be charged for the service specified therein.

Basing its order on the foregoing findings of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Santa Maria Gas Company charge and collect for gas service in the City of Santa Maria and to consumers along Orcutt road and in the town of Orcutt, as specified in Schedule No. 1 herein, the rates and charges as specified therein, such rates and charges to be effective for all meter readings taken on and after December 12, 1921.

SCHEDULE No. 1.

General Service.

Applicable to domestic and commercial service for heating, cooking and lighting.

Territory.

Applicable to towns of Santa Maria and Orcutt and consumers along Orcutt road.

Rate.

First	5,000 cubic feet per meter per month	$1 20 per M cubic feet
Next	45,000 cubic feet per meter per month	1 10 per M cubic feet
All over	50,000 cubic feet per meter per month	1 00 per M cubic feet

Minimum charge $1.00 per meter per month.

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Special Conditions.

Consumers served under this schedule have priority in the use of gas over consumers served under Schedules Nos. 4, 5 or 6 (see Decision No. 9443) at times when there is insufficient gas to supply the demands of all consumers.

It is hereby further ordered:

1. That the order in Decision No. 9443 in Application No. 6442 except as herein specifically modified is continued in full force and effect.

2. That in accordance with the Commission's order granting rehearing in this matter, dated September 29, 1921, Santa Maria Gas Company credit or refund to its consumers in Santa Maria and along Orcutt road and in the town of Orcutt the amount of money charged in excess of that determined under the rates herein specified during the period since the effective date of Decision No. 9443 on October 1, 1921.

Dated at San Francisco, California, this twenty-third day of December, 1921.

DECISION No. 9915.

MOTOR CARRIERS' ASSOCIATION (A VOLUNTARY ASSOCIATION)

vs.

McCORMICK STEAMSHIP LINE, J. L. CRISWELL, H. JOHNSON, J. W. ASHFORD, ZECK CIGAR COMPANY, CHAS. SANSOME, T. E. HUTSON, H. MARCOUX, THE AMBASSADOR TRANSFER AND STORAGE COMPANY, DIXON TRANSFER AND STORAGE COMPANY, JOHN DOE MURPHY, C. CHRISTIE, T. O. FRASIER, C. W. BOWMAN, RICHARD ROE FOWLER, HARRY COE REED, FRANK R. FREITAS, HARRY McDONALD, HARRY DOE AMMON, F. RHODES, G. L. DENNISON, CHAS. W. DYSON, JAS. A. SANGUINETTI, N. J. FERRAND, RICHARD WEBB, J. E. GURNEY, JACK M. L. HALL, DEWEY W. THOMAS, C. W. VROOM, C. E. MURRAY, JOS. A. GREEN, SOL DAVIS, JOHN DOE SANDERS, E. H. JOHNSON, M. C. SMITH, MRS. ETHEL EAKIN, AUGUSTA JUENEMANN, J. E. GURNEY, J. M. FOWLER, R. L. RITTER.

Case No. 1638.

Decided December 23, 1921.

TRANSPORTATION COMPANIES—RENT CAR SERVICE—COMMON CARRIERS—FACTS DETERMINE TYPE OF SERVICE.—The contention of defendants that chapter 213, Statutes of 1917, does not apply to their operations, claimed to be a rent car service, is not sustained. Occasional and infrequent trips do not change the character of their essential operation, which was found to be the transportation of persons or property for compensation over a regular route or between fixed termini.

OCCASIONAL TRIPS—SHARING EXPENSES—GOOD FAITH.—It is held that it is not violative of chapter 213, Statutes of 1917, to advertise for passengers to share the expense of a pleasure or business trip, undertaken in good faith when the person so doing does not hold himself out as engaged in the business of transportation over a regular route or between fixed termini.

AGENTS, EMPLOYES, LIABILITY OF.—In this case it is held that defendants who booked passengers, accepted deposits and gave receipts for illegal operation acted in violation of the Automobile Transportation Act.

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FREIGHT CARRIERS—IRREGULAR OPERATION—RESTRICTED SERVICE.—It is held that motor freight carriers holding themselves out as being regularly engaged in the business of the transportation of property for compensation over a regular route or between fixed termini, can not escape the provisions of the Automobile Transportation Act by irregular trips or by confining their operations to a particular class of commodities.

N. C. Folsom and *Nutter, Hancock and Rutherford*, for Motor Carriers' Association, Complainant.

Joseph A. Brown, for Carl Freitas, William J. Carr, F. R. Freitas, T. O. Frasier, C. W. Bowman, Claude Christie, Jack Hall, Charles Sansome, C. R. Peck, Charles B. Eakin, D. W. Thomas, H. W. Cummings, J. E. Gurney, W. J. Schrader, E. J. Cook and C. W. Vroom, Defendants.

Frank B. Austin, C. W. Cornell, for Southern Pacific Company, Intervenor.

N. Levy, Platt Kent and *E. T. Lucey*, for The Atchison, Topeka and Santa Fe Railway, Intervenor.

C. I. Spangler, for Sol Davis, Defendant.

H. W. Kidd, for Motor Transit Company.

S. W. Thompson, for United Stages, Incorporated.

Harry N. Blair, for Hodge, Mershon and Rose.

BENEDICT, *Commissioner*.

OPINION.

This proceeding was brought by the Motor Carriers' Association, a voluntary association organized for the promotion and protection of the motor carrying industry, the complaint alleging that each of the defendants hereinafter named has been and was at the time of filing of this complaint engaged in the transportation of passengers and/or property for compensation over a regular route or between fixed termini over the public highways within the State of California in violation of the provisions of chapter 213, Statutes of 1917, as amended, or are acting as agents for individuals so engaged:

McCormick Steamship Line, L. J. Criswell, H. Johnson, J. W. Ashford, Zeck Cigar Company, Chas. Sansome, T. E. Hutson, H. Marcoux, The Ambassador Transfer and Storage Company, Dixon Transfer and Storage Company, John Doe Murphy, C. Christie, T. O. Frasier, C. W. Bowman, Richard Roe Fowler, Harry Coe Reed, Frank R. Freitas, Harry McDonald, Harry Doe Ammon, E. Rhodes, G. L. Dennison, Chas. W. Dyson, Jas. A. Sanguinetti, N. J. Ferrand, Richard Webb, J. E. Gurney, Jack M. L. Hall, Dewey W. Thomas, C. W. Vroom, C. E. Murray, Jos. A. Green, Sol Davis, John Doe Sanders, E. H. Johnson, M. C. Smith, Mrs. Ethel Eakin, Augusta Juenemann, J. E. Gurney, J. M. Fowler, R. L. Ritter, Mrs. I. G. Dial and Chester A. Nelson, doing business under the fictitious name of California Highway Express.

Public hearings were held at San Francisco on October 18 and October 20, 1921, and at Los Angeles on November 2, 1921, at which time the matter was submitted and it is now ready for decision.

Complainant in connection with its allegation that defendants are operating in violation of the provisions of chapter 213, Statutes of 1917, as amended, claims that the association has been subject to great

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and irreparable damage and has suffered a great loss in revenue through such operations and it petitions the Commission to find that the commission of acts alleged in such complaint constitute the defendants and each of them common carriers under section 22 of article 12 of the Constitution of the State of California, and that such operation is unlawful and to require each of said defendants to forthwith desist.

Section 1, subsection (*c*) of chapter 213, Statutes of 1917, as amended, provides as follows:

> The term "transportation company," when used in this act, means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any automobile, jitney bus, auto truck, stage or auto stage used in the business of transportation of persons or property, or as a common carrier, for compensation, over any public highway in this state between fixed termini or over a regular route, and not operating exclusively within the limits of an incorporated city or town or of a city and county; provided, that the term "transportation company" as used in this act, shall not include corporations or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever, in so far as they own, control, operate or manage taxicabs, hotel busses or sightseeing busses, or any other carrier which does not come within the term "transportation company" as herein defined.

And section "E":

> The words "between fixed termini or over a regular route" when used in this act, mean the termini or route between or over which any transportation company usually or ordinarily operates any automobile, jitney bus, auto truck, stage or auto stage, *even though there may be departures from said termini or route*, whether such departures be periodic or irregular.

Considerable evidence was introduced by complainant particularly as regards the method of operation of defendants engaged in the transportation of passengers for compensation between San Francisco and Los Angeles, this evidence being to the effect that certain of defendants hold themselves out as being regularly engaged in the business of transportation of persons between the points named and continuously advertise to that effect in various daily papers published in San Francisco and Los Angeles.

It appears from such evidence that certain of defendants herein maintain regular terminals and agencies and advertise more or less regularly in the daily papers soliciting passengers desiring transportation between San Francisco and Los Angeles; that such agencies regularly collect deposits and book passengers desiring transportation; that defendants so engaged have a regular fixed amount to be charged for transportation service rendered and arrange among themselves to provide sufficient automobiles to leave at an approximately regular leaving time to care for all passengers desiring transportation.

Very little evidence was introduced by defendants herein. Their principal contention was that they are not transportation companies as defined by chapter 213, Statutes of 1917, as amended, but are engaged solely in the rent car service, holding themselves out as being

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willing to go anywhere at any time and not operating over any regular route or between any fixed termini; and that, while the majority of their business has been between San Francisco and Los Angeles, they have occasionally made trips to other points, such as San Diego, Santa Barbara, etc. These occasional and infrequent trips do not warrant the Commission in determining, at least as to certain of the defendants, that they are not common carriers. The evidence herein introduced shows that they were actually holding themselves out as engaged solely in the transportation of persons or property for compensation over a regular route and/or between fixed termini, not only by means of advertisements regularly published in daily papers at both termini, but through the action of agents who secured, booked and turned over to them passengers desiring such class of transportation. Testimony to this effect was offered by various witnesses who patronized the facilities offered by such defendants.

Doubtless, various persons have carried passengers for compensation between San Francisco and Los Angeles in connection with a pleasure or a business trip between such points. Occasionally, particularly during the summer months, an individual on his vacation desires to drive from San Francisco to Los Angeles or Los Angeles to San Francisco and wishes to lessen the expense of the trip. He advertises for passengers to travel with him and share the expenses. I can not hold that any one so doing in good faith is violating the provisions of chapter 213, Statutes of 1917, as amended, in that they are not holding themselves out as engaged in the business of transportation over a regular route or between fixed termini. This, however, should not be construed as authorizing any evasion of the plain terms of the law by persons seeking to engage in transportation business.

Certain others of these defendants, however, clearly appear, from the evidence, to have no other means of livelihood nor are they engaged in any other business than that of transportation of passengers or property over a regular route or between fixed termini, irrespective of the fact that on infrequent occasions there may be departures from said termini or route. Such operators advertise in the daily papers that an automobile is leaving at a specified time on a particular date and when prospective passengers apply for transportation, a deposit is collected, their names taken and grouped according to the seating capacity of the automobile or automobiles scheduled to leave at the time desired.

Furthermore, a considerable number of individuals engaged in this class of transportation business are not bonded and passengers are not provided with any protection against accident, loss or damage due to

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accident or negligence of the owner or driver of the automobile. A particular instance of this kind was shown in connection with the present proceeding. While this proceeding was pending there were several serious accidents to automobiles operated by individuals engaged in transportation business between San Francisco and Los Angeles. In one of such accidents three lives were lost. Attempts by passengers of this automobile to obtain damages disclosed the fact that the owner and operator of such automobile had no indemnity insurance of any kind whatsoever and the passengers were obliged to look out for themselves after the accident, the operator claiming to be financially unable to arrange for other means of transportation from the point of accident to passengers' destination or to refund any portion of the through fare which was collected in advance. This class of transportation is extremely dangerous in other ways, particularly due to the distance between termini which one driver attempts to cover on a single trip. In my opinion no individual, irrespective of his experience in driving automobiles, can regularly drive a large and heavy automobile continuously for a distance of approximately 500 miles without endangering the lives of his passengers, and it is my belief that in so far as is possible under the provisions of chapter 213, Statutes of 1917, as amended, such methods of operation should be eliminated.

Considerable evidence was introduced as regards certain of the defendants herein who subsequently formed what they term "Rent Drivers Association." These defendants, it appears, conduct regular terminals at both San Francisco and Los Angeles and operate under a joint agreement by which advertisements are published continuously in the daily papers at both termini, and arrangements are made to care for all passengers presenting themselves for transportation, automobiles of each individual being loaded with passengers in rotation in accordance with their arrival at either terminal.

As illustrative of their method of operation, a day book kept by such association was introduced in evidence, showing the following: The operators running out of the San Francisco terminal made 92 trips from San Francisco to Los Angeles during the period August 3 to September 30, 1921. This would indicate a total of about 184 trips in both directions during the period mentioned, and while such operation was conducted subsequent to the filing of the complaint in this proceeding and as such is not proper evidence as regards their operation at the time and prior to the filing of this complaint, from other evidence introduced in this case it can be taken as indicative of the operation of the individuals as such during the period of time complained of.

Five of the defendants herein named own no automobiles and were not actually engaged in the transportation of persons or property over

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a regular route or between fixed termini. The evidence showed, however, that they regularly booked passengers for transportation between San Francisco and Los Angeles, accepted deposits for such transportation and issued receipts therefor. These defendants include Sol Davis, J. L. Criswell, W. H. Saunders, G. L. Flowers and H. C. Martens.

Under the provisions of section 8, chapter 213, Statutes of 1917, as amended, "every officer, agent or employee of any corporation, *and every other person* who violates or fails to comply with, *or who procures, aids or abets* in the violation of any provisions of this act, * * * is guilty of a misdemeanor * * * ".

It clearly appears that in the conduct of their business in acting as agencies for carriers, defendants herein, they were guilty of violation of the provisions of chapter 213, Statutes of 1917, as amended. It further appears from the evidence, however, that each of the above named defendants immediately ceased such business upon being notified that they were violating the provisions of the above named chapter, and I believe that in so far as they are concerned the complaint should be dismissed with the understanding, however, that any future violations of this nature will be considered in the same light as that of the principals who are actually engaged in the transportation of passengers or freight.

Two freight carriers were also made defendants in this proceeding, namely, The Ambassador Transfer and Storage Company and Chester A. Nelson, doing business under the fictitious name of California Highway Express. The Ambassador Transfer Company, it would appear, was regularly holding itself out as being engaged in the transportation of property, consisting principally of furniture and household goods, between San Francisco and Los Angeles, advertised in the daily papers and accepted and transported at fixed rates all such class of commodities offered for transportation.

The California Highway Express publishes a regular schedule of rates between Los Angeles, San Francisco, Oakland, and Sacramento and intermediate points, and Mr. C. A. Nelson, owner, testified that his trucks continuously operate between the points named whenever sufficient tonnage is offered to make a paying load.

The Commission held in Decision No. 9599:

> If one engaged in the business of automotive transportation could avoid the regulatory provisions of the law by merely operating at irregular times, a handsome premium would be placed on poor service to the public, for one of the essentials of transportation service is regularity of operation.

While such carriers do not maintain what can be termed a regular schedule nor do their trucks operate entirely through, particularly in case of a truck load destined Los Angeles to Modesto with a return load Modesto to Los Angeles, I do not believe that such operation in

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itself exempts them from the provisions of chapter 213, Statutes of 1917, as amended, in view of the fact that they are holding themselves out as being regularly engaged in the business of transportation of property for compensation over a regular route or between fixed termini, although it be confined to a particular class of commodities.

I submit the following form of order:

ORDER.

Hearings having been held, evidence submitted and the Commission being fully advised:

It is hereby found as a fact that the following named defendants were at the time of filing of the complaint herein and previous thereto holding themselves out as being engaged and actually were engaged in the business of transportation of persons and/or property *for compensation* over the highways of this state between fixed termini or over a regular route and not operating exclusively within the limits of an incorporated city or town or of a city or county; and

It is hereby further found as a fact that the following named defendants were at the time of filing of the complaint herein and previous thereto holding themselves out as being engaged and actually were engaged in the business of transportation of persons and/or property as *common carriers* over the highways of this state between fixed termini or over a regular route and not operating exclusively within the limits of an incorporated city or town or of a city or county; and

It is hereby further found as a fact that such operation constitutes a violation of the provisions of chapter 213, Statutes of 1917, as amended; and

It is hereby ordered, that the following named defendants immediately discontinue such operation:

C. Christie, T. O. Frasier, Chas. A. Sansome, F. R. Freitas, Jack M. L. Hall, C. W. Vroom, N. J. Ferrand, L. J. Austin, J. E. Gurney, Roy Fisher, H. A. Fletcher, W. Juenemann, Carl Freitas, William J. Carr, C. W. Bowman, C. R. Peck, Charles B. Eakin, D. W. Thomas, H. W. Cummings, W. J. Schrader, F. J. Cook, Geo. L. Dennison, Mrs. I. G. Dial, Chester A. Nelson, doing business under the fictitious name of California Highway Express, and Ambassador Transfer and Storage Company; and,

It is hereby further ordered, that the above entitled complaint, in so far as it refers to other defendants not hereinabove named, be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1921.

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DECISION No. 9916.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TELEPHONE AND LIGHT COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING SAID CALIFORNIA TELEPHONE AND LIGHT COMPANY TO ISSUE ADDITIONAL SHARES OF ITS SIX PER CENT CUMULATIVE PREFERRED CAPITAL STOCK.

Application No. 7385.

Decided December 23, 1921.

Leo H. Susman, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

California Telephone and Light Company asks permission to issue $206,200 par value of its 6 per cent cumulative preferred stock. Applicant asks permision to issue $154,600 of the stock to reimburse its treasury on account of earnings invested in properties from March 1, 1913, to September 30, 1921, and to sell $51,600 of the stock at not less than $80 per share and use the proceeds to pay in part the cost of additions, betterments and improvements installed subsequent to October 31, 1921.

At the hearing had on this application on December 15, applicant was requested to file with this Commission a statement showing the investment in its properties since the appraisal of its properties by the Commission's engineering department. Such statement has been filed by applicant. It shows that the total of the Railroad Commission's engineering department's appraisal, which is as of June 30, 1916, and the cost of additions and betterments to November 30, 1921, amounts to $1,151,938.08

Applicant reports stocks and bonds outstanding as follows:

Common stock	$764,850 00
Preferred stock	343,886 66
Bonds	602,900 00
Total	$1,711,636 66

Applicant's current liabilities are reported at $99,047.53 and its current assets, exclusive of materials and supplies, at $53,860.46. Materials and supplies are excluded from the current assets for the reason that they are included in the figure showing the company's investment as of November 30, 1921.

As of October 31, 1921, applicant reports an accumulated surplus of $161,645.21 as compared with a surplus of $12,121.94 on January 1, 1916. The increase in the accumulated surplus is in general accounted for by the investment of surplus earnings in properties.

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In Exhibit No. 3, applicant reports that from March 1, 1913, to October 31, 1921, it expended for additions and betterments the sum of $512,127.44. Applicant's Exhibit No. 6 shows that of these expenditures, $321,801.36 have been financed through the issue of stock and bonds. Deducting the $321,801.36 from the $512,127.44 leaves $190,326.08, which represents capital expenditures which applicant alleges have not been paid for with the proceeds obtained from the sale of stock or bonds. Applicant now asks permission to issue $154,600 of stock to reimburse its treasury in part on account of the reported expenditures of $190,326.08, which applicant claims were made solely from the surplus earnings and which would have been available for dividends had they not been reinvested in plant and properties. I question the correctness of applicant's conclusion that all of the $190,326.08 might have been distributed in dividends had that amount not been invested in properties. I do this for the reason that it appears from applicant's statements that the moneys represented by its reserve for accrued depreciation reported on October 31, 1921, at $90,616.28, have been invested in applicant's business and that the moneys represented by such reserve would not be available for the payment of dividends. Applicant's accumulated surplus is in excess of $154,600 and it is therefore not necessary to determine what part of the $90,616.28 reported under "Reserve for Accrued Depreciation" represents investment in additions and betterments. The application can be granted without such a determination.

After reimbursing its treasury, the company intends to deliver the $154,600 of stock to the holders of the present outstanding stock in liquidation and payment of all accumulated and unpaid dividends on the preferred stock, such stock to be delivered on the basis of one share for each $80 of accumulated dividends. As stated above, applicant as of October 31, 1921, reported $343,886.66 of preferred stock outstanding. No dividends have been paid on this stock since December 20, 1915. From that date to December 20, 1921, the accumulated dividends amount to $123,686.21.

Applicant's officers are of the opinion that if the accumulated dividends are paid in the manner indicated, it will be able to sell preferred stock to pay part of the cost of additions and betterments. It asks permission to sell $51,600 of stock at $80 per share to secure funds to pay for additions and betterments referred to in its Exhibit No. 5. In this exhibit, applicant estimates that during 1922, it will be called upon to expend on its telephone properties for additions and betterments the sum of $19,809.11, on its electric properties the sum of $68,266.91 and for general equipment the sum of $2,378.20, making a total of $90,454.22. The order herein will permit applicant to issue

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and sell $51,600 of stock at 80 for the purpose of paying in part for additions and betterments installed subsequent to October 31, 1921. Before using any of the moneys for these purposes, applicant will be required to file with the Commission a detailed statement of moneys actually expended for additions and betterments. On the filing of such statement, the Commission will make such supplemental order or orders permitting the use of the proceeds as it may deem proper.

Mr. A. F. Hockenbeamer, one of applicant's directors, testified that in his opinion the greater majority, if not all, of the present holders of preferred stock will agree not only to accept stock in payment for their unpaid accumulated dividends, but also agree to purchase a part of the $51,600 of additional stock offered for sale.

In Decision No. 721 dated June 30, 1913 (Vol. 2, Opinions and Orders of the Railroad Commission of California, pp. 1002-13), the Railroad Commission ordered applicant to set aside from income each year for ten years beginning with the calendar year 1914 the sum of $2,500 in addition to such sums as may be required to be set aside for sinking fund or depreciation purposes under its first mortgage and deed of trust, and in addition to such sum as the Commission might thereafter require it to set aside for depreciation. Statements filed by applicant show that it has set aside annually the sum of $2,500. Under the order of the Commission, applicant was permitted to use the annual sum of $2,500 either for the purpose of retiring bonds or for the purpose of paying for additions and betterments which should remain uncapitalized. The company has heretofore advised the Commission that it will use the annual payment of $2,500 for financing additions and betterments to its properties. Up to October 31, 1921, $19,583.33 of earnings have been appropriated for this purpose. The $19,583.33, it appears to us, should be deducted from the company's alleged uncapitalized expenditures of $190,326.08, as of October 31, 1922. If this is done, there remains uncapitalized a reported expenditure of $170,742.75, an amount in excess of the stock which applicant asks permission to issue to reimburse its treasury.

I herewith submit the following form of order.

ORDER.

California Telephone and Light Company having applied to the Railroad Commission for permission to issue preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein and that the expenditures herein authorized are not reasonably chargeable to operating expenses or to income;

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It is hereby ordered, that California Telephone and Light Company be and it is hereby authorized to issue on or before June 30, 1922, $206,200 of its 6 per cent cumulative preferred stock.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized to be issued $154,600 shall be used for the purpose of reimbursing in part applicant's treasury on account of surplus earnings invested in additions, betterments and improvements to its properties prior to October 31, 1921. Following the reimbursement of applicant's treasury, the stock may be delivered to the holders of outstanding preferred stock in liquidation and payment of all accumulated and unpaid dividends on the preferred stock, such $154,600 of stock to be delivered on the basis of $80 per share and under the conditions outlined in the application and testimony.

2. Of the stock herein authorized to be issued, $51,600 shall be sold by applicant, for cash, at not less than $80 per share and the proceeds deposited in a special fund and expended only for such purposes as the Railroad Commission may hereafter authorize by a supplemental order or orders.

3. California Telephone and Light Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1921.

DECISION NO. 9920.

IN THE MATTER OF THE APPLICATION OF ESTEBAN OYHARZABAL, JR., AND PEDRO OYHARZABAL FOR PERMISSION TO OPERATE A PUBLIC UTILITY WATER PLANT IN THE TOWN OF SAN JUAN CAPISTRANO.

Application No. 7026.
Decided December 23, 1921.

Haas and Dunnigan, by *Walter Haas,* for Applicants.

BY THE COMMISSION.

OPINION.

In the above application Esteban Oyharzabal, Jr., and Pedro Oyharzabal asked for a certificate that public convenience and necessity require them to construct and operate a system to supply water for

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domestic purposes in the town of San Juan Capistrano and vicinity, Orange County.

A public hearing was held in the above entitled matter at Los Angeles, before Examiner Williams, of which all interested parties were notified and were given an opportunity to appear and to be heard.

The system, which now supplies 17 consumers, consists of a 14 inch well 396 feet deep, from which water is pumped into a concrete sump or storage reservoir. It is then pumped direct into distribution mains by an automatically operated booster pump, keeping the pressure between 38 and 50 pounds at all times.

Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, submitted a report, showing the estimated cost of the system to be $8,405 and a replacement annuity calculated by the sinking fund method amounting to $170. Maintenance and operating expense was estimated at $75 per month.

The well has been tested and shows an ample capacity to adequately supply the demands, and an analysis of the water by the State Board of Health indicates a satisfactory sanitary quality at the time of sampling.

There was no one present to protest against the granting of a certificate and there are no data available upon which rates can be based. However, the rate schedule established in the order following is designed to do substantial justice to both the applicant and the consumers.

ORDER.

Application having been made as entitled above, a public hearing having been held thereon, and the matter having been submitted:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that Esteban Oyharzabal, Jr., and Pedro Oyharzabal construct and operate a water system for the purpose of supplying water for domestic purposes in the town of San Juan Capistrano and vicinity, Orange County; and

It is hereby ordered, that Esteban Oyharzabal, Jr., and Pedro Oyharzabal be and they are hereby authorized and directed to file with the Railroad Commission of the State of California within twenty (20) days of the date of this order the following schedule of rates to be charged for all service rendered subsequent to January 31, 1922.

FLAT RATES.

1. Residences, boarding houses, apartments, lodging houses, tenements and flats of five rooms or less	$2 00
For each additional room	25
Additional for each toilet	25
Additional for each bath	25
Additional for each private garage and one automobile	25
For each additional automobile	25
Additional for private barn with not more than two horses or cows	50
For each additional horse or cow	25

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2. Sprinkling or irrigation of lawns, shrubbery, trees, gardens, etc., per square yard	$0 003
3. Blacksmith shops, machine shops, lumber yards, printing offices, bakeries, undertaking parlors, grocery stores, theaters, warehouses, butcher shops and large stores	3 00
4. Drug stores, dental offices and photograph galleries	4 00
5. Bottling works, creameries, slaughter houses and laundries	6 00
6. Banks, professional offices, billiard parlors, fraternal halls, clubrooms, churches, shops, plumbing shops, stores and shops not otherwise listed	2 00
7. Office buildings, for each room	1 00
8. Restaurants, chop houses and cafes, per unit of seating capacity	20
9. Livery stables and feed yards, per average number of stock fed, each	25
10. Public garage, six automobiles or less	5 00
For each additional automobile	75
11. Soda fountains and ice cream stands, either alone or in connection with other business	3 00
12. Barber shops, per chair	1 50
Additional for each bathtub	1 00
Additional for each toilet	50
13. Hotels—	
Dining room	2 50
Bedroom with running water	30
Each bathtub	75
Each toilet	40
14. Building work—	
For mortar and to dampen brick, per 1000 brick	50
For cement work, each barrel	25

METER RATES.

From 0 to 400 cubic feet or less	$1 50
From 400 to 1000 cubic feet, per 100 cubic feet	30
From 1000 to 5000 cubic feet, per 100 cubic feet	20
All over 5000 cubic feet, per 100 cubic feet	15

MONTHLY MINIMUM CHARGE.

For ⅝-inch meter	$1 50
For ¾-inch meter	2 00
For 1 -inch meter	2 50
For 1½-inch meter	3 00
For 2 -inch meter	3 50

It is hereby further ordered, that Esteban Oyharzabal, Jr., and Pedro Oyharzabal be and they are hereby directed to file with the Railroad Commission within twenty (20) days from the date of this order, for its approval, rules and regulations governing the distribution of water to its consumers, said rules to become effective on and after January 1, 1922.

Dated at San Francisco, California, this twenty-third day of December, 1921.

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DECISION NO. 9926.

MRS. F. K. MORRI ET AL.

vs.

W. S. B. LAWRIE AND THE UNION TRUST COMPANY OF SAN DIEGO.

Case No. 1635.

Decided December 23, 1921.

Marks and Launer, by *Albert Launer*, and *Samuel L. Collins*, for Complainants.
W. S. B. Lawrie, in propria persona.

BENEDICT, *Commissioner.*

OPINION.

The above entitled proceeding involves the service of water to a colony of people in what is known as the Mary Goodman tract (or Swan's subdivision), Hart subdivision, Anaheim Home tract, and other property, all adjacent to the north limits of the city of Anaheim, in Orange County.

The complainants allege in effect that defendants have served water to the above named tracts for the past seven or eight years, charging regular monthly rates which they changed from time to time at their own convenience and without the authority of the Railroad Commission; that such rates are exorbitant and were irregularly established; that the service has for a considerable time been subject to frequent interruptions; that during the past few months the service has grown gradually worse until it was entirely discontinued in June, 1921, compelling the complainants to carry or haul water in barrels for domestic use from whatever source it could be obtained; that defendants have refused any water service whatsoever since that date, thereby causing a very serious unsanitary condition.

Defendants' answer denies the principal allegations of complainants and alleges in effect that the discontinuance of service was due to the leaky condition of certain pipe lines not owned by the defendants; that the real defendants are Annie M. Lawrie and Sarah Mildred Lawrie of San Diego, California; that complainants continued to use water for irrigation purposes contrary to orders of defendants, and that the water system has not been operated as a public utility.

A public hearing was held in the above entitled matter at Anaheim, of which all interested parties were notified and given an opportunity to appear and be heard.

It appears that this water system is operated by, and that bills for service rendered are made out in the name of, The Union Trust Company of San Diego, by W. S. B. Lawrie, agent, and that it is owned by Annie M. Lawrie and Sarah Mildred Lawrie.

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The testimony shows conclusively that the defendants since the beginning have conducted the system as a public utility. The plant was first installed some eight or ten years ago to furnish water to lands owned by defendants, but as adjacent tracts were subdivided and required water, agreements were made and water service rendered until at the present time defendants have approximately forty-two consumers, of whom about one-half are located on the Mary L. Goodman and Anaheim Home tracts. Consumers are supplied through a pipe line which defendants claim was installed and maintained by a Mr. Swan, the owner of one of the subdivisions, until such time as he had disposed of all his real estate interests, and abandoned the system.

The testimony also shows that the pumping equipment is old and obsolete and continually in need of repair, causing many interruptions to service.

Defendants expressed their willingness to continue service under the jurisdiction of the Railroad Commission if they were found to be a public utility and were ordered to continue such service.

The evidence shows that there is a great deal of dissatisfaction among the consumers over the arbitrary and irregular rates charged and also in regard to the amount of water received on the flat rate schedule, and the request is made that meters be installed so that they will pay only for such water as they actually receive.

I am of the opinion that adequate repairs to the pumping plant and pipe system, the installation of meters and the establishment of a schedule of meter rates will remove practically all causes for complaint and result in greatly improved service.

There are very few records of water use available to aid in the establishment of meter rates, but the schedule set out in the accompanying order is designed to produce a fair and remunerative income comparable to the revenues received from the application of the flat rate schedule now in effect.

I submit the following form of order:

ORDER.

Complaint having been made in the above entitled proceeding against the service, rates and rules of the water system operated by The Union Trust Company of San Diego, W. S. B. Lawrie, agent, which system is owned by Annie M. Lawrie and Sarah Mildred Lawrie and which furnishes water to unincorporated tracts in the vicinity of Anaheim, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that this is a public utility water system; that the service rendered by it has been insufficient and inadequate; that the rates charged and collected have been without regard to definite schedules; that adequate service can not be rendered until neces-

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sary repairs to the pumping plant and pipe system have been made; and that meters should be installed and a meter rate established.

And basing the order upon the foregoing findings of fact and upon the statements of fact contained in the opinion preceding this order;

It is hereby ordered, that The Union Trust Company of San Diego and W. S. B. Lawrie, its agent, operators of this water system, and Annie M. Lawrie and Sarah Mildred Lawrie, owners thereof, be and the same are hereby ordered to proceed at once to make such repairs to the pumping plant and pipe system as are necessary to give adequate service, and to continue such service without interruption to all consumers on this water system.

It is hereby further ordered, that the owners and operators of the system be and they are hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, and thereafter charge the following rates, effective for all water supplied subsequent to December 31, 1921:

MONTHLY FLAT RATES.

For each dwelling or lodging house of five rooms or less, including bath and toilet	$1 50
For each additional room	15
For each automobile	25
For each horse or cow	15
For each store or shop	1 00
For soda fountain or soft drink establishment	2 00
For barber shop with one chair	1 25
For each additional chair	25
For each public dining room	2 00
For each public bathtub	50
For each public lavatory	25
For each public toilet	25

The use of water for irrigation will not be permitted.

MONTHLY METER RATES.

From 0 to 500 cubic feet or less	$1 50
From 500 to 1000 cubic feet, per 100 cubic feet	25
All over 1000 cubic feet, per 100 cubic feet	15

Meters may be installed at the option of either the utility or the consumer. When installed at the option of the utility such installation shall be without cost to the consumer. When the installation is made at the consumer's request the cost of the meter shall be advanced by the consumer and the deposit shall be returned by the utility at the rate of 25 per cent of the monthly bills for water used until the entire amount advanced shall have been repaid.

It is hereby further ordered, that rules and regulations governing the utility's relations with its consumers be filed with this Commission for approval within thirty (30) days from the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1921.

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DECISION No. 9927.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AUTHORITY TO PURCHASE CERTAIN SECURITIES OF SANTA BARBARA ELECTRIC COMPANY, AND TO ACQUIRE THE PROPERTIES AND FRANCHISES OF SANTA BARBARA ELECTRIC COMPANY, AND OF SANTA BARBARA ELECTRIC COMPANY TO SELL ITS PROPERTIES AND FRANCHISES TO SOUTHERN CALIFORNIA EDISON COMPANY.

Application No. 7240.

Decided December 23, 1921.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 9766, dated November 17, 1921, authorized Southern California Edison Company, among other things, to enter into an agreement by which it agreed to pay to Santa Barbara Electric Company the sum of $682,634.50 on or before July 1, 1941, with interest at the rate of 7.04 per cent per annum; and

Whereas, Southern California Edison Company does not now desire permission to execute said agreement and therefore asks that the order in Decision No. 9766, in so far as it relates to the execution of an agreement and the payment of a fee thereunder, be vacated and set aside;

And the Railroad Commission being of the opinion that applicant's request should be granted;

It is hereby ordered, that the order in Decision No. 9766, dated November 17, 1921, in so far as it relates to the execution of an agreement and the payment of a fee, be and it is hereby vacated and set aside.

It is hereby further ordered, that the order in Decision No. 9766, dated November 17, 1921, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-third day of December, 1921.

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DECISION No. 9928.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PASSENGERS BETWEEN POINTS ON THE PACIFIC ELECTRIC RAILWAY IN THE STATE OF CALIFORNIA.

Application No. 3791.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PASSENGERS USING LOCAL SERVICE BETWEEN POINTS ON THE PACIFIC ELECTRIC RAILWAY COMPANY IN THE CITY OF LOS ANGELES, CALIFORNIA.

Application No. 4403.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PASSENGERS BETWEEN POINTS ON THE PACIFIC ELECTRIC RAILWAY COMPANY IN THE FOLLOWING CITIES, COMMUNITIES AND TERRITORIES IN THE COUNTIES OF LOS ANGELES, ORANGE, RIVERSIDE AND SAN BERNARDINO, CALIFORNIA, TO WIT: CLAREMONT, COLTON, GLENDALE, HUNTINGTON BEACH, LONG BEACH, NEWPORT BEACH, PASADENA, POMONA, REDLANDS, REDONDO BEACH, RIVERSIDE, SAN BERNARDINO, SAN GABRIEL, SAN PEDRO-WILMINGTON, SANTA ANA, SANTA MONICA, SAWTELLE-SOLDIERS' HOME, SOUTH PASADENA, UPLAND, VAN NUYS, VENICE, SANTA MONICA-OCEAN PARK-VENICE-PLAYA DEL REY, LANKERSHIM, SAN FERNANDO, SHERMAN, CULVER CITY, HERMOSA BEACH, MANHATTAN BEACH, EL SEGUNDO, GARDENA, TORRANCE, COMPTON, WATTS, SEAL BEACH, FULLERTON, WHITTIER, BREA, EL MONTE, SAN DIMAS, COVINA, LA VERNE, ONTARIO, RIALTO, ARCADIA, MONROVIA, GLENDORA, SIERRA MADRE, SAN MARINO, ALHAMBRA AND BURBANK.

Application No. 4407.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PETROLEUM AND PETROLEUM PRODUCTS, CARLOADS, CLASSIFIED FIFTH CLASS IN CURRENT WESTERN CLASSIFICATION, AS CONTAINED IN PACIFIC ELECTRIC RAILWAY COMPANY'S LOCAL, JOINT AND PROPORTIONAL FREIGHT TARIFF C. R. C. NO. 235, APPLYING BETWEEN POINTS ON LINES OF PACIFIC ELECTRIC RAILWAY COMPANY IN CALIFORNIA TO THE BASIS OF FOUR AND ONE-HALF CENTS PER HUNDRED POUNDS HIGHER THAN RATES IN EFFECT ON MAY 25, 1918, BUT NOT TO EXCEED FIFTH CLASS RATES AS INCREASED EFFECTIVE JUNE 25, 1918.

Application No. 4733.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES AND TO ESTABLISH JUST AND REASONABLE RATES FOR THE TRANSPORTATION OF PERSONS AND PROPERTY BETWEEN POINTS IN THE STATE OF CALIFORNIA.

Application No. 5806.

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IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE ELECTRIC STREET RAILWAY SERVICE OF THE PACIFIC ELECTRIC RAILWAY COMPANY AND LOS ANGELES RAILWAY CORPORATION IN THE HOLLYWOOD DISTRICT OF THE CITY OF LOS ANGELES.

Case No. 1602.

THE CHAMBER OF COMMERCE OF SAN PEDRO
vs.
PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 1607.

Decided December 24, 1921.

VALUATION—RATE BASE.—The figure of principal importance for use in a rate proceeding, assuming a proper treatment of the reserve for depreciation, is held to be the historical reproduction cost, undepreciated of the operative property. This figure is found to be $64,500,000. This amount represents, as nearly as it can be ascertained, the actual reasonable investment in the operative property existing at this time.

RATE OF RETURN—ECONOMIC MAXIMUM.—It is well understood, the Commission points out, that with local railway and electric interurban railway rates there exists what may be termed an economic maximum in the rate which, practically, can not be exceeded regardless of theoretical rate base and fair return calculations. It happens that in the case of electric railways, and especially in the case of this particular railway, this economic maximum is determined, to a large extent, by competitive forces—the private and public automobile and truck.

OPERATION AT LOSS.—The Commission states that it has very reluctantly reached the conclusion that it can not justify from any standpoint the continuation of a separate and distinct public utility service operated permanently at a material loss, with the unavoidable consequence that in some form such loss must be borne by patrons of other lines and services.

LOSING LOCAL SERVICE—ELIMINATED FROM RATE BASE.—In this case there was eliminated from the rate base such property as may fairly be apportioned to losing local services and also there was eliminated the resulting operating losses in a consideration of a fair return that may under reasonable rates be earned by applicant.

ARBITRARY ZONE CHARGE—UNIFORM MILEAGE BASIS—NONDISCRIMINATORY FARES. The arbitrary charge of 6 cents for a 5½-mile zone in Los Angeles in connection with interurban service is abolished and all fares placed on a uniform and nondiscriminatory mileage basis.

BLANKET BEACH FARES.—It is found that blanket rates granted to beach communities in their developmental period should be discontinued as to ordinary traffic during week days. On Saturdays, Sundays and holidays the order makes provision for blanket round-trip excursion fares.

ZONES IN LOS ANGELES.—Two 6-cent zones ordered established in Los Angeles. The 6-cent fare zones are made applicable only to local business, the interurban traffic being on a uniform mileage basis.

DEFERRED MAINTENANCE—EXTRAORDINARY AND TEMPORARY EXPENSES.—It is pointed out that as the present decision is intended to establish normal rate structure, heavy deferred maintenance and extraordinary and temporary expenses should not be charged against a short period.

UNIVERSAL TRANSFERS.—It is declared that one of the most urgent transportation needs of the city of Los Angeles is a system of universal transfers from the Pacific Electric local lines to the lines of the Los Angeles Railway and vice versa. The order in the present proceeding requires a stipulation by applicant declaring its readiness, provided the Commission makes a similar order

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in the Los Angeles Railway case, to establish a transfer good on both lines and to such extent and under such conditions as may be determined by the Commission.

Frank Karr and *R. C. Gortner*, for Pacific Electric Railway Company.
Jess E. Stephens, *W. P. Mealey*, *Milton Bryan*, *H. Z. Osborne, Jr.*, and *F. A. Lorentz*, for the City of Los Angeles.
J. H. Howard, for City of Pasadena.
William Hazlett, for City of South Pasadena.
Arthur A. Weber, for City of Santa Monica.
T. C. Gould, for City of Alhambra.
Thomas B. Reed, for City of Covina.
Frederick Baker, for City of Azusa.
H. B. Lynch and *Bert B. Woodward*, for City of Glendale.
Clyde Woodworth, for City of El Segundo, City of Inglewood and City of Beverly Hills.
Geo. L. Hoodenpyl and *Bruce Mason*, for City of Long Beach.
Geo. H. Scott, for City of Santa Ana.
Charles W. Lyon, for City of Venice.
E. O. Winburn, for the City of Watts.
William Guthrie, for City of San Bernardino.
Walter F. Dunn, for City of El Monte and City of Arcadia.
Miguel Estudillo, for City of Riverside.
John P. Dunn and *A. Black*, for City of Monrovia.
Frank L. Perry, for cities of Manhattan Beach, Hermosa Beach and Redondo Beach.
Thomas A. Berkebile, for City of Monterey Park.
C. L. Welch, for Hollywood, and Santa Monica Boulevard Improvement Association.
Earl Crandall and *G. E. Deleman, Jr.*, for City of Manhattan.
George R. Wickham, for City of Hermosa Beach.
W. E. Guerin, for City of Pomona.
P. A. Stanton, for Seal Beach.
F. P. Gregson, for Associated Jobbers of Los Angeles.
J. S. Horn, for Los Angeles Central Labor Council.
W. H. Engle, for Northwest Welfare Association.
Harold Janss and *F. A. Cattern*, for Northeast Los Angeles Improvement Association.
Shannon Chandall, for Los Angeles Chamber of Commerce, Torrance Chamber of Commerce, Llewellyn Iron Works and the Union Tool Company at Torrance.
W. H. Ingle, for people of Edendale.
Henry E. Carter, for Wilmington Chamber of Commerce.
Rollin L. McNitt, for Eagle Rock Chamber of Commerce.
I. G. Lewis and *Milton Bryan*, for Chamber of Commerce of San Pedro.
W. E. Mellinger, for Chamber of Commerce of Hermosa Beach.
Harlan G. Palmer and *E. M. Tilden*, for Hollywood Board of Trade.
Howard F. Shepherd and *C. L. Welch*, for Santa Monica Boulevard Improvement Association.
O. G. Ball and *A. L. Colby*, for Dayton Improvement Association.
M. L. Garrigus, for certain citizens of Central-South Hollywood.
Seward Cole and *Edwin O. Palmer*, for Santa Monica and Vine Boulevard Business Men's Club.
R. J. Harwood, for Hollywood Vermont Association.
Anthony Pratt, for Municipal League.
E. C. Moore, for Vermont Avenue and Griffith Park Improvement Association.
W. H. Cline and *Van M. Griffith*, for Los Angeles Park Commission.
W. E. Sibertson, for West Hollywood Association.
A. A. Pratt, for himself as patron of Pacific Electric and driver of automobile.
H. W. Kidd and ***F. D. Howell***, for Motor Transit Company.
Rollin L. McNitt, for Pasadena-Pomona Stage Line, Pasadena-Ocean Park Stage Line, Mount Wilson Stage Line, Arrowhead Springs Company.
S. W. Thompson, for United Stages, Incorporated.
F. Landier, for Auto Bus Operators in San Pedro.
A. W. Burt, for Protestants, residents of San Antonio Heights.

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C. F. Sawyer, for himself as a resident of Hollywood.
A. F. Hall, of Long Beach, *in propria persona*.

Commissioners, BRUNDIGE, LOVELAND, ROWELL AND BENEDICT.

OPINION.

The applications and complaints referred to above, although some of them were separately heard, are consolidated with the proceeding in Application No. 5806. This was done by stipulation of all parties on the hearing in the latter application on October 11, 1921.

All of the five applications ask for rate increases on the part of the Pacific Electric Railway Company (hereinafter referred to as the company). In Case No. 1602 the Commission, on its own initiative, instituted an investigation into the street railway service rendered in the Hollywood district of the city of Los Angeles. Case No. 1607 is a complaint by the Chamber of Commerce of San Pedro against the Pacific Electric Railway Company, relating particularly to service and facilities in the San Pedro district of the city of Los Angeles.

To understand the present case, a brief review of the rate situation covered by the various applications and of the events leading up to the present proceeding is desirable. Application No. 3791 was filed in May, 1918, during the period of abnormal costs and labor conditions resulting from the war, and the company asked for increases in interurban one-way, round-trip and commutation fares. In September, 1918, the Commission, in Decision No. 5731, granted certain increases. These were protested by the cities of Santa Monica, Venice, Pasadena, South Pasadena, Alhambra, San Gabriel and Long Beach in petitions asking for a rehearing. Rehearings were granted and in Decision No. 5953 of November 21, 1918, the original order was amended in some particulars. It was realized that Application No. 3791 was an emergency proceeding and no attempt was made to deal with the company's entire rate structure in a comprehensive manner. The local five-cent fare in Los Angeles and in outside towns was left undisturbed. The emergency rates fixed by the Commission in that proceeding resulted in a paper increase of approximately 18 per cent, on which not more than 12 per cent increase was realized in gross revenue.

On February 27, 1919, the company filed Application No. 4403 and on March 1, 1919, Application No. 4407. In these two applications the inadequacy was urged of the increase granted in Decision No. 5953 and increases were asked from five cents to seven cents in the local fares within the city of Los Angeles and in thirty-five (35) communities outside of Los Angeles. Hearings were held in these applications on March 25, 1919, and April 29, 1919, but before a decision could be rendered, additional large increases in operating expenses caused the company to ask for a dismissal of Applications No. 4403 and No. 4407 and for a more comprehensive treatment of the rate situation. This the

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company did in Application No. 5806, filed on June 11, 1920. The application declares the established rates to be insufficient to produce a just return upon applicant's property and insufficient to produce sufficient revenue to meet its fixed charges and operating expenses and so low and inadequate as to be unjust and unreasonable. The application goes on to show the increase in operating expenses, the necessity for additional capital and that no dividends have ever been paid on the capital stock of the company. In view of the losses sustained, the company asks

> the Commission to make a comprehensive examination, investigation and survey of its rate and service situation and to authorize a complete revision of its rate schedule on a permanent basis that will provide a revenue sufficient to pay its operating expenses and fixed charges, and render a fair and reasonable return upon its railroad property investment.

In support of its application the company filed a number of exhibits dealing with investment, revenues, and expenses. Applicant declares it to be impossible to state with accuracy the original cost of the railroad and equipment because the records of consolidated predecessor companies are inadequate, and asserts that the true cost to applicant of its railroad property and equipment is stated to be the capital stock now issued and outstanding, which was issued by applicant to stockholders of the constituent corporations and the assumption of all of the debts, liabilities and obligations of such constituent corporations, and the sums subsequently invested by applicant. The value of the property used in the operation of its railroad and transportation business is estimated by the company "at a conservative valuation in excess of $75,000,000." Applicant agrees to file, as a part of its application, an inventory and appraisal of its property in detail and submit this at the time of the hearing of this application.

The company further states

> that in view of the fact that such comprehensive examination and investigation on the part of the Commission will probably consume several months' time, and in view of the extraordinary need which applicant has for immediate relief from its present financial situation caused by the great increase in operating costs, increased cost of supplies, wages, power, material, taxes and capital hereinbefore referred to, applicant asks that the Commission make a temporary order, effective during the pendency of said investigation and until permanent rates are established, making increases in its rates, schedules and fares now in effect to such amount as will make said rates just and reasonable and adequately remunerative.

Two alternate plans are suggested in the application for a temporary rate increase dealing with local and interurban fares. Applicant also asks for an increase of its freight rates to bring them to a parity with the freight rates on steam railroads in competitive territory.

While the Commission was considering the advisability of granting a temporary or emergency rate increase a new phase of the situation developed through the enactment of the Federal Transportation Act.

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In pursuance of the mandate of Congress the Interstate Commerce Commission divided the country into several railroad zones, California falling into the so-called Mountain-Pacific zone, and ordered a 25 per cent increase of freight rates and a 20 per cent increase in passenger rates within that zone in order to produce for the carriers the 5½ per cent or 6 per cent fair return specified in the Transportation Act. The applicant had become a party to the joint application of the interstate carriers operating in this state for an order authorizing the same increase in passenger and freight rates in California as had been authorized by the Interstate Commerce Commission in *ex parte* 74. This Commission, therefore, had before it the two proposed temporary rate schedules as set forth in Application No. 5806 and the *ex parte* 74 matter dealing with the uniform 25 per cent freight and 20 per cent passenger fare increases for all carriers in California. The decision was reached to include the Pacific Electric Railway Company in the Commission's decision in *ex parte* 74, to disregard the company's specific proposals for temporary increases and to proceed with a general investigation of the company's operations and financial condition with a view to establishing a comprehensive and what might be called permanent basis for a fair and reasonable rate structure.

1. Investment, valuation, rate base.

The investment figures are shown in the company's annual report to the Commission as of December 31, 1920, as follows (to the nearest dollar):

Investment in road and equipment	$85,164,558 00
Miscellaneous physical property	92,391 00
Materials and supplies	2,278,224 00
	$87,535,173 00

No great reliance or particular significance can be placed on these figures for rate-making purposes, since it is not known to what extent so-called intangible items are included and since it is impossible to make a check of the correctness of additions and betterments and retirements in the early years of the company's history. The total, however, may be compared from the standpoint of reasonableness with certain valuation figures which are now available.

In the applications preceding Application No. 5806 the position was uniformly taken by the representatives of the interested communities that the reasonableness of any rates was impossible of determination because of the absence of reliable information on the value of the company's property used and useful in the public service. In the company's opinion a valuation was not of controlling importance because a fair return was not being earned and probably could not be earned,

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even if both the rate of return and the valuation were taken at the lowest possible figures. This generalization did not, however, satisfy the communities. They insisted upon a valuation being made. The Commission, in consequence, instructed its engineering department to prepare a detailed inventory and appraisal and to submit figures of original cost, reproduction cost and accrued depreciation. Such a valuation was made and introduced in this proceeding as Commission's Exhibit No. 1. The valuation consists of three large volumes and is a very detailed and exhaustive piece of work. According to the report of the department a finding of the original cost of the company's properties could not be made; the necessary data for such a figure do not appear to be in existence. Detailed estimates of historical reproduction cost undepreciated and depreciated were produced. In the company's opinion a historical reproduction cost estimate was not alone sufficient to reflect all important elements of the present value of this property for rate-making purposes and applicant urged that consideration should also be given by the Commission to a reproduction cost new estimate of its property. Such an estimate was also made by our engineering department.

A summary of the valuation figures found in Commission's Exhibit No. 1 is as follows

Entire System as of December 31, 1920.

(a) Historical reproduction cost undepreciated—	
Operative property	$63,412,675 00
Nonoperative property	7,782,084 00
Total	$71,194,759 00
(b) Historical reproduction cost less depreciation—	
Operative property	$50,752,455 00
(Condition, per cent, 80)	
Nonoperative property	5,619,641 00
(Condition, per cent, 72)	
Total	$56,372,096 00
(Condition, per cent, 79)	
(c) Reproduction cost new, based on 5-year construction period ending December 31, 1920—	
Operative property	$92,400,000 00
Nonoperative property	11,200,000 00
Total	$103,600,000 00
(d) Reproduction cost, new, less depreciation—	
Operative property	$73,900,000 00
Nonoperative property	8,800,000 00
Total	$82,700,000 00
Condition per cent same as above.	

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Between January 1 and October 31, 1921, the company has expended $1,008,780 for additions and betterments. Adding this amount to the figures for operative property, we have the following totals:

Entire System—Operative Property as of October 31, 1921.

Historical reproduction cost, undepreciated	$64,421,455 00
Historical reproduction cost, less depreciation	51,761,235 00
Reproduction cost new, undepreciated	93,408,780 00
Reproduction cost new, less depreciation	74,908,780 00

The company filed a statement of exceptions to the engineering department's valuation as of December 31, 1920. The valuation, so far as the inventory is concerned, is accepted by the company, together with the statements as to the physical facts as set forth in the engineering department's report, subject to the right to make later suggestions looking toward modification in so far as errors or omissions are in question. The company does not, however, accept the conclusions reached by the engineering department with regard to certain items enumerated in the statement. Applicant's principal claims and objections are these: an increase of 20 per cent is asked in the item of "engineering" (the claimed increase amounting to $351,712); a claim for a so-called right of way multiple of 175 per cent is made and the valuation of the right of way is claimed to be $18,636,409.75 instead of $10,649,377 as found by the engineering department (claimed increase $7,989,033); the valuation of the property embraced in I. C. C. Account No. 3 "other land" is objected to for the same reason and a claim for a multiple similar to the one urged for "right of way" is made (this would increase this item by $7,608,705); objection is made to the estimate of grading and the disallowance by the engineering department of adaptation, solidification and seasoning is protested (no definite sum of money is claimed under this item); a claim for "interest during construction" is made for a rate of 8.42 per cent instead of the 6 per cent used by the engineering department, together with a claim that interest should also be allowed on the land values (amounting to an additional claim of $949,988); an item of working capital of $600,000 is claimed; the item of "park and resort property," classed by our engineers as nonoperative property, is claimed to be operative and a transfer of this item is asked (this would increase the total of operative property by $479,851); the percentage allowed by the engineering department for "taxes" is protested and 1.25 per cent is asked, instead of one-half of one per cent used by the engineering department (adding $500,000 to the valuation); objection is made to the exclusion from operative property of lands dedicated and appropriated to public use for highway purposes subject to the right of the railroad to maintain and operate its trains (no definite sum is claimed for this item);

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claim is made for the element of "cost of service" but not in any definite amount. The aggregate of the valuation increases asked as to the items for which a definite money claim is made amounts to $18,477,289. We see no necessity, in this case, of making a decision on these disputed items. It may be stated, however, that in this valuation the usual and established methods of the Commission and of the engineering department were used and that, in the valuation of this property, this company has been dealt with the same as other public utilities. We have in all recent valuation cases, after full consideration, uniformly decided against the allowance of land multiples and against allowance for adaptation and solidification of grading. Neither do we feel, in view of the record in this case, that there should be an increase over that made in Commission's Exhibit No. 1 in the allowance for "engineering," "interest" and "taxes" and are not persuaded at this time that the item of "park and resort property" should be transferred to the class of property listed as used and useful for transportation purposes.

The figure of principal importance for use in a rate proceeding, assuming a proper treatment of the reserve for depreciation, we consider the historical reproduction cost, undepreciated, of the operative property. This figure at the present time is approximately $64,500,000. This amount represents, as nearly as it can be ascertained, the actual reasonable investment in the operative property existing at this time.

If 8 per cent were at the present time held to be a fair rate of return, then a reasonable net earning after operating expenses, depreciation and taxes would come to approximately $5,150,000 (exactly $5,153,716). We do not hesitate to say at this point that if rates were fixed to produce such a return, regardless of all other circumstances, such rates would, in our opinion, be unreasonable rates and would not be just and fair to the public. It is well understood that with local street railway and electric interurban railway rates there exists what may be termed an economic maximum in the rate which, practically, can not be exceeded regardless of theoretical rate base and fair return calculations. It happens that in the case of electric railways, and especially in the case of this particular railway, this economic maximum is determined, to a large extent, by competitive forces, and we have reference now to the competition of the private and public service automobile and truck. We shall have occasion to refer to this matter again under another heading in this opinion.

If it were held that this road, in the matter of a fair return, should have an average return as Congress contemplated for all of the country's steam roads and as the Interstate Commerce Commission interpreted the mandate of the Transportation Act in *ex parte* 74, this applicant's

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rates would have to be fixed to return a profit to the owners of 5½ per cent or 6 per cent. On that assumption the fair return would be, on the 6 per cent basis, $3,865,287, and, on the 5½ per cent basis, $3,543,177.

It is in the record that at no time since 1912 have the net earnings of this company approached even the smallest of these figures. Commission's Exhibit No. 2 shows that the per cent return on the historical reproduction cost adjusted for the years 1914 to 1920, inclusive (operative property and operative income considered only), was as follows:

Year	Approximate historical reproduction cost of operative property	Total operating income	Approximate per cent of return on historical reproduction cost
[1]1914	$58,400,000	$2,366,910	4.0
[1]1915	59,200,000	2,351,328	4.0
[1]1916	60,000,000	2,346,629	3.9
1916	60,800,000	2,261,823	3.7
1917	61,600,000	2,490,313	4.0
[2]1918	62,400,000	1,619,189	2.6
1919	63,200,000	897,772	1.5
1920	64,000,000	2,714,411	4.2

[1]Year ending June 30. [2]Calendar year.

It should be added that the showing made in the table above is, in fact, less favorable than would appear from the percentage returns. This is true because, for reasons which will appear hereunder, the company has during the last four or five years undermaintained its property and deferred all except the most urgent maintenance expenses and, in addition, has set aside an inadequate depreciation reserve. The fact appears to be established that the rate of return has at all times during the quoted period been below the actual cost of money and at least 20 per cent lower than the average interest rate on the company's outstanding securities.

These facts and other causes, it appears to us, must have due consideration in the fixing of rates at this time.

2. Results of investigation into financial operating and service conditions.

When Application No. 5806 was filed it was apparent to the Commission that full and complete information should be at its disposal in order to make possible an intelligent decision dealing with the company's entire rate structure. The Commission, therefore, in June, 1920, instructed its chief engineer to make a full investigation of the financial, operating and service conditions of the Pacific Electric sys-

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tem. The program adopted for this investigation included the following matters:

I. Analysis, line by line, for the entire system of
  (a) Revenues from operation (passenger and freight).
  (b) Expenses of operation (passenger and freight).
  (c) Service rendered:
    Number of passengers.
    Origin and destination of passengers.
    Operating schedules as to time tables and to number of seats offered.
  (d) Probable future growth of communities.

II. Study of possible changes through additions to fixed capital, either by railway company or the communities, or both.

III. Sources of cost of power, its transmission and distribution, use of feeder cables, substations, etc.

IV. System-wide analysis and study of operating costs, including taxes, depreciation, paving, franchise taxes, organization and administration, deferred maintenance.

V. Study and analysis of past, present and proposed capital expenditures and their relations to the expenditures suggested by us as a result of this investigation.

VI. The freight business.

VII. Miscellaneous studies into economies of operation (requirements for additional rolling stock; application of one-man cars to cross-town lines, etc.).

VIII. Franchise situation in Los Angeles and other communities.

IX. Relation of Pacific Electric to Southern Pacific and to other enterprises (Los Angeles Terminal Company, etc.).

Later there was added a study of the cost of automobile transportation (jitney and truck) with a view of ascertaining whether it would be practicable or advisable to substitute or supplement the present electrict railway service on some lines or in some services with motor transportation service.

This investigation continued during the last half of 1920 and practically the entire year of 1921. The findings and conclusions of our engineers were introduced in these proceedings as Commission's Exhibit No. 2 (Report on Financial, Operating and Service Conditions of Pacific Electric Railway Company, by Richard Sachse, chief engineer, 4 Vols.). The exhibit deals with all of the matters assigned to the engineering department by the Commission and goes exhaustively into all phases of the present problem. In so far as matters were dealt with affecting particularly the city of Los Angeles, our engineering department had the cooperation of the engineers of the board of public utilities of the city of Los Angeles. A report was introduced by Mr. H. Z. Osborne, Jr., chief engineer of the board of public utilities (City's Exhibit No. 1) dealing with the Pacific Electric Los Angeles situation, and it may be stated that, in general, the city's engineers and our engineers find the same state of facts and reach the same general conclusions. The local public officials and representatives of commercial and improvement organizations in the communities served by the company were advised of the character and scope of the investigation and

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asked to cooperate. Studies were made of local situations and the cooperation had from about fifty (50) communities influenced to a considerable degree the conclusions reached by the engineers. Subsequent to the hearings in these cases a series of engineering conferences were held with representatives of communities and of the Pacific Electric with a view of reaching conclusions affecting local service in various communities. The results of these conferences are before the Commission and have been given consideration together with the complete record in these proceedings.

3. Financial condition of applicant.

It will not be necessary to go to any extent into this company's corporate and financial history. The principal facts are well known. The present company is a consolidation of a number of predecessor companies, and most of these predecessors, themselves, represented a consolidation of separate and independent transportation corporations. The period covered by the history of this property extends from 1885 to the present time and represents the evolution and development of urban and interurban transportation from horse-car lines through cable and steam lines and narrow gauge electric lines to the present modern high-speed electric railway and motorbus service. There are before the Commission complete statements of capitalization, earnings and expenses of this property since 1912, and a careful analysis of these figures is contained in Commission's Exhibit No. 2. The capitalization as of June 30, 1921, is as follows:

	Authorized	Outstanding
Common stock, par value $100 per share	$100,000,000	$34,000,000
	Par value total issue	
Bonds, par value	$65,444,000	57,346,000
Total par value stocks and bonds outstanding as of June 30, 1921		$91,346,000

All of the outstanding common stock is owned by the Southern Pacific Company. The total shown under issued and outstanding bonds represents the aggregate amount of seventeen different bond issues of varying dates of issue and maturity and varying rates of interest, ranging from 4 to 6 per cent, as shown in detail in the body of the report. Practically all of the bond issues have sinking fund provisions. Unpaid interest on bonds outstanding amounted to $5,771,-011 on June 30, 1921, and sinking fund payments were in arrears on the same date to a total of $783,417. No dividends have been paid on common stock since the incorporation of the company in 1911. It appears that of the total outstanding bonds the Southern Pacific Company's holdings amount to $27,031,000 par value. The average rate

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of interest on all of the outstanding bonds is approximately 5½ per cent.

The other total indebtedness, unsecured, on June 30, 1921, was $15,358,589; practically all of this amount owing to the Southern Pacific Company.

The company's balance sheet as of June 30, 1921, shows an accumulated deficit of $13,443,444. This is the aggregate of annual deficits from operation ranging from $500,000 to a maximum of $2,767,726.31 (in the calendar year 1919).

The financial result of the operations of the system since 1912 may be summarized in this way: at no time since 1913 has the company had sufficient earnings in any one year, after the operating expenses were taken care of, to meet the full interest on its bonds, and nothing, of course, was available for surplus or for investment in plant out of the earnings or for returns to the owners of the property in any other form. It is apparent that the financial situation has progressively grown worse from 1912 to 1919, and only in 1920 (because of increases in rates and increased business) was there a tendency in the other direction.

We have already stated that the book figures do not show the real financial condition to the extent that, by reason of deferred maintenance and the lack of an adequate depreciation reserve, large operating and capital expenditures have now become necessary which should have been spread over a number of years in the past. It is only because the losses of this system have been carried by the more prosperous parent concern, the Southern Pacific Company, that the present applicant has been able to escape receivership.

4. Causes of present condition.

The controlling causes of the present financial condition of the company, in the order of their permanent importance, are stated as follows in Commission's Exhibit No. 1:

First—Motor car competition, including private and public machines used in transporting both passengers and freight;
Second—Abnormal conditions and costs, prior, during and subsequent to the war;
Third—Growing burden of expenditures not related to the previously mentioned causes.

We are satisfied that the motor-car, private and public, is the most serious factor responsible for insufficient revenues. Since 1910 the population of the city of Los Angeles has at least doubled and nearly the same ratio of growth has been maintained in the bulk of the territory served by the Pacific Electric. In spite of this very great increase in population, the number of passengers carried declined each year from 1914 to 1917 with only slight increases in 1918, 1919

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and 1920. Only in 1920 was as high a total reached as in 1914. The car mileage on the system increased from 25,786,722 in 1913 to 28,095,253 in 1920 and the passenger revenue from $7,268,657 to $10,823,536. In 1913 the passenger revenue per car mile was 28.2 cents and in 1920, 38.5 cents. During the same period the cost of the service increased greatly. Since 1916 various labor costs on this road have advanced from 55 to 135 per cent and materials from 20 per cent to 400 per cent, with an average for all labor of about 90 per cent and for all materials of about 100 per cent. To offset these increases the rates of fare have been advanced. These rate increases, however, were unable to keep step with the increased cost of operation and while the latter, between 1916 and 1920, increased from 80 to 120 per cent, the aggregate increase in rates has averaged less than 40 per cent, with an actual increase in revenue, due to increased rates, of less than 30 per cent.

Motor transportation as a competitor to steam and electric railroads has come to stay. The Commission has repeatedly had occasion to state its attitude toward that transportation utility. The law is specific in recognizing this form of transportation as a carrier utility and there should be, in our opinion, opportunity for unobstructed development so that it may be demonstrated to what extent, and under what circumstances the motor common carrier is an advance over older forms of transportation and, therefore, a superior instrument of public convenience and necessity. From the record in this case it would appear that under certain conditions the motor-bus has the advantage over the electric road and this conclusion would seem to be borne out by the other fact that the present applicant, itself, is now undertaking to supplement its electric service with motor service. It is also clear from this record that, in several communities, notably the San Pedro district of the city of Los Angeles and Pasadena, and possibly Long Beach, the two forms of transportation have come into competition to such an extent that there is not business enough for both of them to continue to live. And however reluctantly the communities immediately concerned may accept such a conclusion, it is, nevertheless, true that there is no warrant for the continuation of electric service unless such a service can be made at least self-sustaining. When we say self-sustaining, we have in mind earnings sufficient to pay for actual operating costs (labor, power, maintenance, taxes, depreciation) and we do not here refer to interest on investment or fair return. And in territory where there are no prospects of such earnings, the public must realize that they are faced with a discontinuance of electric railway service. If the view were taken that the company should not be allowed to abandon a service, no matter

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how great the losses, it would naturally follow that these losses would have to be borne by the patrons of other branches of the service because the owners of the railway will not for any length of time make good such losses. The Commission has not the power (and is opposed to the theory) of placing the deficit of a losing public utility service upon those who do not and can not benefit by such service. In cases of local service where operating expenses have not been earned for a long period, and where there is no prospect of such earnings, we propose that the company put before this Commission its plans either for eliminating the service or for making it self-sustaining to the extent indicated above.

With reference to the second important cause of the company's present financial conditions (abnormal costs consequent to the war), the record shows that the tendency of labor and material costs is downward at this time. We believe the company can and will effect a reduction in the costs of units of transportation, both freight and passenger, and this expectation is taken into consideration in the proposed rates.

There are several classes of expenditures, however, which are bound to show further increases in the future and will continue to be a growing burden upon the company's patrons unless means are found to minimize or eliminate such expenses. We refer to the expenditures growing out of franchise conditions and principally paving costs. The Commission has repeatedly stated the essential facts as to paving expenses and their effect upon the cost of street railway operation. It is clear that to whatever extent such costs can be reduced, the car rider will directly be benefited. On this system the total capital investment in paving is reported by our engineers to be in excess of $2,300,000, and the annual expense (including interest on the investment) is figured in excess of $400,000. This sum in 1920 amounted to about 3 per cent of the total operative revenue and to 12 per cent of the net revenue. The significance of this item and its importance to the car rider is therefore clear.

In Commission's Exhibit No. 2 remedies were considered by our engineers (and also by the city's engineers in City's Exhibit No. 1) along the following lines:

(a) Through operating economies and savings.
(b) Through changes in service (additions, curtailments, abandonments, supplementing of, or substitution for electric service by motor car bus service).
(c) Through changes in plant (additions to fixed capital for new structures that will enable the handling of more traffic, bringing about better service and result in immediate or ultimate economy of operation; additional equipment).
(d) Through elimination or curtailment of competition and elimination or lessening of nonproductive expense burdens (jitney and motor truck competition, paving, franchise provisions, taxes).
(e) Through a change in rates (possible increases; rate readjustment; zoning).

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All of these possibilities are fully discussed in the report and suggestions and recommendations are made both with reference to the general system and individual lines.

During the course of the investigation a number of items of possible saving or economy were suggested to the company and these were adopted and put into effect in most instances without waiting for an order from this Commission. It would seem, however, that further economies are possible and that in order to bring these about better operating records and statistics are required.

We are impressed particularly by the observations made in Commission's Exhibit No. 2 as regards the equipment situation and believe the company should pay special attention to the recommendations made on pages 164 to 186 of that exhibit. In this branch of the company's operations we are satisfied very considerable economies can be effected and large savings made by more efficient supervision and analysis. Our engineers conclude that the equipment in general is in poor condition and that it should speedily be brought to normal operating efficiency. A more suitable car for heavy city service appears to be needed and the standard for steel interurban cars is not considered satisfactory and seems to be uneconomical for service in the commutation zone or to the beaches. There are on the system now 77 different types of car bodies, 21 types of trucks, and 21 types of motors with different modes of control. This is an inefficient and wasteful condition. While it is true that this great multiplicity of types is a consequence of the consolidation of various independent roads, little appears to have been accomplished toward standardization and simplification. The company agrees to the necessity of working toward fewer and better standards and this should promptly be done. There appears to be an excessive proportion of electric equipment failures and it is in the record that over 50 per cent of the total failures occur on less than 20 per cent of the total equipment due to a certain type of electric control. Our engineers report that equipment maintenance costs are unusually high, and considerable improvement seems to be possible in the company's shop practices.

We are laying stress on this item because the equipment expense for the year 1920 amounted to over $2,000,000 (nearly 20 per cent of the total operating expenses) and because the condition of the equipment enters to an important degree in almost all other operating expense items. We expect the company to satisfy the Commission that proper steps are taken to carry out the recommendations pertaining to this and other items in Commission's Exhibit No. 2.

The order in this proceeding should contain a provision requiring the company to furnish to the Commission, monthly, such operating and traffic figures as will enable us to keep in touch with and check all

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recommendations made in this decision and by the engineers, and to observe the effects of this order.

An analysis of the various services given by the company, and the operating results on various lines, leads to the following conclusion:

The *freight business* is profitable and not a burden on the passenger operations. The freight revenue amounts to about 27 per cent of the total and is increasing at a better ratio than the passenger revenue. The expense of freight operation is only about 18 per cent of the total operating expenses.

The *local passenger service* in the various municipalities is in almost all instances operated at a loss. We have already called attention to the fact that in some communities this condition is related to motor carrier competition and that, where there is not business enough for both forms of transportation, a choice between the two will have to be made.

The *local service in Los Angeles* is a separate problem largely. That service is now operated at a loss, due to the great average length of ride for the unit 6-cent fare. After a very careful consideration of the entire record on this point, we conclude that the establishment of a zone plan for Pacific Electric local service in Los Angeles is the best and fairest solution. Representatives of the city of Los Angeles urged that a zone plan for the Hollywood service alone should be instituted, and that on other Pacific Electric lines in Los Angeles the present 6-cent fare should be continued. It is our intention to require the company, in this case, to establish a much better Hollywood local service than now given and also to require the best possible service on all other local Los Angeles lines. To bring this about, large capital expenditures are required and the order in this case should be conditional upon the necessary capital being made available immediately and the necessary additional plant installed at the earliest possible moment.

With these facts in mind, we see no justification for discriminating in the matter of rates and zones in favor of one section of Los Angeles and against others. We are also satisfied that one of the most urgent transportation needs of the city is a system of universal transfers from the Pacific Electric local lines to the lines of the Los Angeles Railway and vice versa. Whether this full transfer privilege should extend to both the inner and the outer zone on the Pacific Electric, we are not prepared to say at this time. It is apparent that an order on this point can not be made without taking into consideration the Los Angeles Railway, which is only incidentally before us in the present proceeding (in Case 1602). There is, however, pending, an application from that company which will soon be considered, and we believe that the order in the present proceeding should require a stipulation by applicant declaring its readiness, provided the Commission makes a

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similar order in the Los Angeles Railway case, to establish a transfer good on both lines and to such extent and under such conditions as may be determined by the Commission.

5. The Hollywood service (Case 1602).

Because of numerous complaints regarding the Hollywood street railway service, and at the request of the Hollywood board of trade, a special study was made of the Hollywood situation in connection with the general Pacific Electric investigation. After an informal conference on April 4, 1921, between the Commission, the board of public utilities of the city of Los Angeles, the Hollywood board of trade, the Los Angeles chamber of commerce, the Los Angeles Railway Corporation and the applicant, the Commission instituted a formal proceeding on its own motion, making both the present applicant and the Los Angeles Railway parties to the proceeding. Both the board of public utilities of the city of Los Angeles and the engineering department of the Commission made reports in that case (Board of Public Utilities, Exhibit A, Case 1602, and Commission's Exhibit A, Case 1602). The city's and the Commission's engineers, in these exhibits, appear to be in accord on all matters within the jurisdiction of this Commission.

It is admitted that the present service is inadequate and that improvement must be made. The applicant's local system, which handles more than 75 per cent of the Hollywood street railway traffic, has practically reached its capacity under present conditions and no betterment can be hoped for by mere operating changes. The representatives of the Hollywood board of trade strongly urge the extension of the Los Angeles Railway lines into Hollywood, but that company is opposed to any such extensions, not only under the present 5-cent fare but also under a possible zone system and a higher fare. The Pacific Electric is equally opposed to the further entry of a competing railway line and is unwilling to undertake the capital expenditures necessary to improve the Hollywood service unless it is permitted, without a ruinous division of the business between competing lines, to take care of the Hollywood traffic by its local electric service and such additional bus feeder lines as may be necessary.

In the engineering conferences subsequent to the hearings in Application No. 5806, it was urged by representatives of the Hollywood board of trade that the Commission should not at this time make an order looking toward the improvement of the Hollywood Pacific Electric service and that the matter should be held in abeyance until new proposals or suggestions for improvement of the entire Hollywood transportation situation could be made by local Hollywood interests. The representatives of the city of Los Angeles did not support this view. In our opinion, a further delay would be unwarranted and to the continued detriment of the city of Los Angeles and the people of Hollywood in

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particular. Regardless of what may be the ultimate development of transportation in Hollywood, the present needs should be taken care of, and this can be accomplished, in our opinion. Neither do we believe that the improvement of the Pacific Electric service, as suggested by us, can in any way interfere with more comprehensive plans in the future.

We propose that applicant immediately acquire sufficient new equipment of a type suited for the Hollywood traffic and in general agreement with the suggestions contained in Commission's Exhibit A, Case 1602. Further, in order to accomplish a permanent and real improvement in the Hollywood service, the construction of a tunnel westerly from the company's Hill street terminal appears to us an absolute necessity. Alternate plans for such a tunnel are discussed in Commission's Exhibit A. The company should be ordered to submit to the Commission, within a reasonable time, plans for the more efficient tunnel, and should satisfy the Commission that the money required for this improvement is available and that construction will commence at the earliest possible date. There should also be submitted proposed time schedules over the shortened line and a general plan of how applicant proposes to serve Hollywood under the new arrangement. The company should be asked to satisfy the Commission on these points as a condition precedent to the going into effect of a revised rate schedule.

Aside from the question of jurisdiction, we are not satisfied that at this time the Los Angeles Railway should be ordered to extend its lines further into Hollywood. The record shows that at least 90 per cent of the street railway travel, both on Pacific Electric and Los Angeles Railway lines, consists of direct rides between the Hollywood section and the business district of Los Angeles. The occasional rider desiring to travel from the Hollywood district to the residence section of Los Angeles south of Hollywood has access to four lines of the Los Angeles Railway Corporation, which tap the southern edge of the Hollywood district. If a universal transfer arrangement can be satisfactorily worked out, these facilities will become much more adequate and much more use will be made of them than at present. The inauguration of bus feeder lines with transfer privileges will further improve the Hollywood service.

The board of public utilities, in its Exhibit No. 1, Case No. 1602, makes certain further recommendations, which in our opinion are deserving of the most careful consideration. The two most important ones are, first, for the separation of street car and vehicular traffic on Sunset boulevard, similar to the method used on Santa Barbara avenue west of Vermont avenue, which recommendation is made both from the standpoint of safety on the part of the general public and to expedite the railway passenger service; and, second, further extension of operation of the present municipal bus line on Vermont avenue between

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First street and Griffith Park, this operation to be carried on either entirely by the city, with transfer provisions both with the Los Angeles Railway and the Pacific Electric or jointly by the city of Los Angeles, the Los Angeles Railway and the Pacific Electric Railway, also with transfer provisions.

The putting into effect of these recommendations would appear to rest largely with the Los Angeles city authorities. If the question of joint or interchangeable transfers for the proposed extension of the municipal line should come before the Commission, it would seem that this matter need not be taken up until preliminary negotiations between the city and the railway companies have resulted in a definite plan.

Our engineers estimate the cost of the proposed improvements pertaining to the Hollywood service as follows:

Additional equipment (50 new cars)	$750,000 00
Cost of tunnel	1,400,000 00
Cost of rearrangement of Hill street terminal and connection at Lake Shore	450,000 00
Total	$2,600,000 00

As against this new capital requirement, there will be operating savings estimated at about $90,000 per year.

From the standpoint of operating economies alone, and under present rates, the expenditure of the required new money would not be justified. The proposed arrangement will, however, result in greatly superior service and a considerable increase in traffic may confidently be expected. The rates proposed in this decision provide for a zone system affecting not only Hollywood, but the entire city of Los Angeles, and will bring about a material increase of revenue from the Los Angeles local business, including the Hollywood traffic. These considerations taken together, we believe, fully justify the proposed additional investment.

With two 6-cent zones on the Pacific Electric in Los Angeles (and a straight 10-cent fare through both zones) and taking into account the proposed additional investment for the Hollywood service, the operating results for the local Los Angeles service (excluding the San Pedro district, which will be discussed separately hereunder) for the twelve months period after the new plan is in effect are estimated as follows:

Los Angeles City Local Service.

Total operating revenue for 1921	$2,050,000 00
Operating expenses, 1921	2,250,000 00
Taxes, 1921	110,000 00
Deficit from operation, 1921	310,000 00
Estimated increase in gross revenue after inauguration of zone system, 12 months	430,000 00
Fair return (available for interest on investment)	120,000 00
Operative property in local Los Angeles service (estimated on basis of actual use and after making apportionment as between interurban and local service, and including local proportion of new capital required for Hollywood service)	$10,250,000 00

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It will be noted that the amount available for fair return is slightly more than one per cent on the operative property apportioned to the Los Angeles service. This estimate is here included to show that even under the proposed zone fares the local Los Angeles service is little more than self-sustaining and merely meets the test which we have laid down to determine whether or not the continuation of any local service is justified.

In spite of this apparently continued unsatisfactory showing for the Los Angeles local service we are satisfied that the financial results in the future will tend to improve. This conclusion we reach because it is apparent that the increased congestion in the metropolitan district (largely caused by motor transportation) is bound to have effects more and more in favor of the electric and interurban street railway and especially in the short haul local service territory. Traffic statistics for the year 1921 show that a more rapid increase in number of passengers carried and in passenger revenue, as compared with former years, has already set in and this condition, we believe, will continue.

6. Local service in San Pedro (Case 1607).

Case No. 1607 is consolidated with this proceeding and San Pedro being a subdivision of the city of Los Angeles the issues raised in that case may well be considered in this place. On May 5, 1921, the chamber of commerce of San Pedro filed a complaint against the applicant asking relief from the inadequate and hazardous operation on the Point Firmin and La Rambla lines. The single-track operation on Front street from Fifth to Sixth street and on Sixth street from Front street to Pacific avenue is objected to and relief is sought from the traffic congestion on Sixth street, due to single track operation.

Reports were introduced by the board of public utilities of the city of Los Angeles (Complainant's Exhibit No. 1, Case No. 1607) and by the Commission's engineering department (Commission's Exhibit No. 1, Case No. 1607). Possible methods of relief were presented and these resolved themselves into the following propositions:

1. The company to double track from Fifth and Front street to Sixth and Pacific and build new extensions into developing sections of San Pedro.

2. Company to abandon local street car service on the Point Firmin and La Rambla lines and to operate auto bus service for the entire community without competition.

3. Company to abandon local street car service on the Point Firmin and La Rambla lines and the community to be served by independent bus lines.

4. Company to operate as at present with bus feeders in the new sections.

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A rerouting of existing independent bus lines and temporary improvements on the Pacific Electric were also considered. From the report of the chief engineer of the board of public utilities (Complainant's Exhibit No. 1) it appears that certain general conclusions were reached by him and these were presented to the Commission with the informal approval of the board, as follows:

1. That the best interests of the San Pedro district will be served by providing adequate street railway transportation to the business and main residential sections of the city.

2. That bus service should be utilized as feeders to supply the outlying districts where the district is populated sufficiently to pay for such operation.

3. That transfers should be issued between the bus lines and the street railway lines.

4. That adequate transportation service requires the elimination of disastrous competition and for that reason, and because of the necessity of having transfer privileges on either the bus line or the street car line, the bus service should be operated by the company operating the street car lines.

5. That the busses should be purchased by the railway company from the present operators at a fair value to be fixed by the board of public utilities and the California Railroad Commission jointly.

6. The traffic congestion relief as outlined in the report, involving the elimination of left-hand turns at Sixth and Beacon and the elimination of parking of automobiles on the south side of Sixth street from Front street west, for a distance of three or four blocks is approved.

The enforcement of the recommendations quoted is, to a considerable extent, within the jurisdiction and power of the city authorities, and this is especially true with reference to the relief suggested for street traffic congestion. Also, in the matter of a possible elimination of local jitney competition, in whole or in part, the Commission is without jurisdiction and control rests with the Los Angeles Board of Public Utilities.

In the hearings in the consolidated cases the representatives of the San Pedro bus operators appeared protesting against any action tending to interfere with their operations. They urged that the great majority of the people of San Pedro would prefer motor bus service to the Pacific Electric service and that a decision should be governed accordingly. Our engineers estimate the cost of double tracking of Sixth street and Pacific avenue to be $280,000. A less comprehensive plan and involving the double tracking only from Fifth and Front to Sixth and Pacific would require a capital expenditure of approximately $80,000. Assuming that Pacific Electric local service should continue in San Pedro, with a requirement that such service be reasonably adequate, estimates of required new capital expenditures for the most necessary double tracking and equipment are made by our chief engineer totaling $120,000. It is estimated that to justify continued operation, taking into account necessary new capital and ignoring, as in the case of the Hollywood service, all fair return, an annual gross revenue

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of at least $130,000 would be required. This would include the operation of bus feeders (170,000 bus miles) and additional railway service of approximately 150,000 car miles. The total operating revenue from the local San Pedro service in 1921 will be approximately $60,000. In order to justify this increased service, therefore, an additional gross revenue of about $70,000 per year would have to be found. It is apparent that no such increase can be expected with the continuation of present motor bus competition. It is equally apparent that at the present time the Pacific Electric local service in San Pedro is carried at an operating loss. We have in San Pedro, therefore, a situation where the continuation of the two competitive services can not be justified. In view of the large number of protests that have come to us against any abandoning of street railway service in San Pedro, we are not prepared at this time to recommend to the company the discontinuance of such service. We believe, however, that the company should promptly enter into negotiations with the Los Angeles city authorities and submit to them specific plans for a satisfactory local service on a basis that will be self-sustaining in the sense indicated in this decision. Thereafter the company should submit to this Commission its definite proposals, together with a suggestion for a rate sustaining adequate service, or in the event that a satisfactory arrangement can not be made, promptly make its application for abandonment of the local San Pedro street railway system.

7. Local service in other communities.

Outside of the city of Los Angeles, the company operates a special local service in Beverly Hills, Long Beach, Pasadena, Pomona, Redlands, Riverside, San Bernardino, Santa Monica and Venice. All of these local services are operated at a loss and do not earn sufficient to pay operating expenses, including taxes, and without any regard to a fair return. We are satisfied from the record in this proceeding that as to several of these communities the service can be put on a self-sustaining basis. This is the case, we believe, in Pasadena, Santa Monica, Venice, Long Beach, San Bernardino and possibly San Pedro. In all of these communities, in our opinion, the company should promptly submit to the local authorities its proposals for giving such local service as may reasonably be required and satisfactory to the local authorities and submit to them its statement of the cost of such service, with its suggestion for a self-sustaining rate of fare. If an arrangement can be reached under which a continuation of the service can possibly be justified the service, in our opinion, should be continued. In any event, the result of the negotiations should promptly be submitted to the Commission.

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With reference to Riverside, Redlands, Pomona and Beverly Hills, the record seems to indicate that there is little possibility of the service being put on a self-sustaining basis. In these communities we believe the company should promptly enter into negotiations with the local authorities with a view to either increase the local fare to the economic maximum, if necessary, or to abandon the service.

We have very reluctantly reached the conclusion that we can not justify from any standpoint the continuation of a separate and distinct public utility service operated permanently at a material loss with the unavoidable consequence that in some form such loss must be borne by patrons of other lines and services. There is no justification for a decision requiring the travelers on interurban lines to make up the losses of local operation in growing and prosperous communities.

It is our purpose to eliminate from the rate base such property as may fairly be apportioned to losing local services and equally to eliminate the resulting operating losses in a consideration of a fair return that may under reasonable rates be earned by applicant.

8. Interurban passenger service.

This service taken as a whole shows under present operation and rates a small surplus, after operating expenses, including taxes, and the problem here in our opinion is one of rate adjustment and not of a general rate increase. In the interurban service we deal with one-way and round-trip passengers and with commutation service, although with regard to the latter there is in some instances no clear dividing line between local and interurban business. The record appears to show that the commutation service as a whole is operated at a loss. The principal causes of this condition are found in the discrimination now existing between certain communities and certain services and arising principally from the so-called beach blanket rate situation, and, further, by reason of the effect on interurban rates of the six-cent fare within the arbitrary five and one-half mile zone in the city of Los Angeles. The rate adjustment we propose will eliminate this discrimination

9. Rates.

The passenger fares now in effect are a continuation of those authorized by this Commission in Application No. 3791, Decision No. 5731, September 4, 1918, and Supplemental Decision No. 5953 in the same application, dated November 21, 1918.

Without reviewing these decisions to any unnecessary extent, it may be stated that the rates authorized in Application No. 3791, September 4, 1918, were based on mileage rates as follows:

	Per mile.
One way	3 cents
Round trip	2½ cents
10-ride commutation	2 cents
30-ride family commutation	1½ cents
60-ride individual commutation, dependent upon the distance	1 cent to 7½ mills

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In figuring the rates from and to Los Angeles 5½ miles were deducted from the through mileage and the rates per mile applied to the remainder. Added to this result was an arbitrary charge of 5 cents extending over the 5½-mile zone radiating from the carrier's terminals in Los Angeles to cover the street car fare.

In Decision No. 7983, in Application No. 5728, August 17, 1920, the company was, in connection with other carriers throughout the state, authorized to increase all of its passenger fares by 20 per cent. The increases then granted, as indicated earlier in this opinion, were in harmony with the mandate of Congress, set forth in the Transportation Act of 1920 and followed the decision of the Interstate Commerce Commission's order in *ex parte* No. 74. The effect of this latter decision was to make the mileage rate for—

	Per mile.
One-way fares	3.6 cents
Round trip	3 cents
10-ride commutation	2.4 cents
30-ride family commutation	1.8 cents
60-ride individual commutation	1.2 cents to 9 mills

The practice of an arbitrary charge was continued for the 5½ miles of street car service within Los Angeles, the charge, however, being increased for this 5½-mile zone from 5 to 6 cents. The result of the adjustments made in the past by reason of the 5½-mile zone within Los Angeles has proved unsatisfactory, inasmuch as the transportation charges to and from Los Angeles are on a lower basis than the fares in effect between intermediate points where the rates are not influenced by the 5½-mile zone.

As illustrative of the situation, there are no zone arbitraries within any of the communities outside the central part of the city of Los Angeles, the result being that in these outlying districts the fares are now on a straight mileage basis. For instance, a point distant 10 miles from Los Angeles, using a 6-cent fare for the first 5½ miles and 3.6 cents for the remaining 4½ miles, now has a one-way fare of 22 cents, while a point located 10 miles from any of the outside communities—San Fernando, Pasadena, Long Beach, etc., has a fare of 36 cents, based on a rate of 3.6 cents per mile. The injustice of this adjustment must be apparent, and in order to remove discrimination a straight mileage basis applying impartially from all points appears equitable and just.

We are of the opinion that the arbitrary charge of 6 cents for a 5½-mile zone in Los Angeles in connection with the interurban service of the Pacific Electric Railway should be abolished and all fares placed on a uniform and nondiscriminatory mileage basis. The effect of uniform mileage rates will be to increase certain short-haul fares out of Los Angeles, reduce all of its long-distance fares and reduce all fares

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originating at points outside of Los Angeles or between the intermediate stations.

We believe the present mileage rates should be reduced as follows:

One-way	from 3.6 cents to 2.75 cents
Round trip	from 3 cents to 2.25 cents
30-ride family commutation	from 1.8 cents to 1.75 cents

There is now in effect a 60-ride individual commutation ticket, purchasable at any time, having a limit of 40 days from date of sale. We suggest that this class of commutation ticket be discontinued and in place thereof an individual calendar month ticket be issued, good for one round trip daily during the month, the rate per mile to remain as at present, but with the rate based on the actual mileage from all depots in all cases except at points where terminal zones are established.

Under the present adjustment the one-way and round-trip fares between Los Angeles and all of the beach resorts extending from Port Los Angeles on the north to Anaheim Landing on the south are on the same basis.

The history of this beach blanket zone dates back to the early days of railway transportation between Los Angeles and the various beach points when a common rate was established by the various competitive lines. Subsequently the blanket rate has been retained on the theory that equal opportunities should be afforded to each of the beach communities to attract excursion and holiday business during their development period. Under this blanket rate, which is at present calculated on the minimum distance to the nearest beach point, the beach communities have always enjoyed a low rate of fare, and discrimination has existed in their favor as against inland communities.

We believe the time has arrived when, because of the growth of the beach communities, this adjustment should be discontinued as to ordinary traffic during week days, but that on Saturdays, Sundays and holidays the company should publish and maintain a round-trip excursion rate of 70 cents applying between Los Angeles and all beach resorts Port Los Angeles on the north to Anaheim Landing on the south.

We are also of the opinion that two 6-cent zones should be established within the city of Los Angeles as heretofore discussed and as set forth in the order herein. The 6-cent zone fares should be applicable only on the company's local cars and where transportation is furnished on interurban cars the fare, because of the different character of the service, should be based upon the mileage schedule, as set forth in the order.

Consideration has been given to publication of fares to cover 46-ride individual school tickets, to be used only by persons under 19 years of

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age attending institutions of learning and good only during specified hours of the day.

In view of the fact that carriers, under the provisions of paragraph 3, section 17 (*a*) of the Public Utilities Act, have authority to issue reduced rate transportation to children attending institutions of learning, the Commission is not authorized to order school children's tickets in effect. The applicant, however, will be expected to voluntarily grant to school children the most liberal privileges possible under the provisions of the Public Utilities Act.

We see no reason for any readjustment of the company's freight rates at this time.

In the publication of the fares and charges, applicant is authorized, in accordance with this order, to violate section 21 of the State Constitution and section 24 (*a*) of the Public Utilities Act.

An estimate has been made by our engineers of the approximate results of operation in the twelve (12) months following the effective date of the rates proposed in this decision:

10. Estimated results of operation under proposed rates.

Estimated total operating revenue on basis of present rates—		
Passenger	$11,400,000 00	
Freight	4,600,000 00	
		$16,000,000 00
Railway operating expenses—		
Way and structures	$1,855,000 00	
Equipment	1,740,000 00	
Power	2,000,000 00	
Conducting transportation	5,114,000 00	
Traffic	200,000 00	
General and miscellaneous	1,430,000 00	
		12,339,000 00
Net revenue		$3,661,000 00
Taxes		760,000 00
Net (available for fair return under present rates)		$2,901,000 00

Estimated results of proposed rate adjustment—	Gross increase	Net increase
Commutation fares	$308,000 00	$300,000 00
It is estimated there will be some falling off in the sale of monthly commutation tickets on account of the change in the rules governing this ticket.		
One-way fares	53,000 00	53,000 00
Round trip fares	310,000 00	300,000 00
Some falling off in travel is estimated to and from points near Los Angeles and some increase is estimated to and from points more distant from Los Angeles because of the readjustment of the mileage basis. The round-trip fare traffic to and from beach points is also affected because of the change in the blanket zone arrangement.		

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Local fares in Los Angeles. It is estimated that the normal increase in travel will approximately offset the decrease due to higher fares.	$430,000 00	$430,000 00
Discontinuance of transfers in Pasadena, Long Beach, Santa Monica and Venice	50,000 00	35,000 00
Increase in revenue from Mount Lowe and trolley trips	20,000 00	20,000 00
	$1,171,000 00	$1,138,000 00

Total estimated net increase	$1,138,000 00
Estimated operating savings from recommended improvements in Hollywood service	90,000 00
Total net available for fair return under proposed rates and service	4,129,000 00
Historical reproduction cost of operative property undepreciated October 31, 1921 (including new capital for Hollywood service)	67,021,455 00

We have already stated that, in our opinion, the permanently unproductive local services in several communities should either be brought to a self-sustaining basis or abandoned and that the operative property apportioned in the valuation to such services should not be considered in the rate base.

The historical reproduction cost, undepreciated, of local services not self-sustaining is as follows:

Beverly Hills	$57,063 00
San Pedro	349,908 00
Pomona	440,532 00
Redlands	340,747 00
Riverside	196,656 00
Total	$1,384,906 00

This total subtracted from the total valuation figure shown above ($67,021,455) leaves the sum of $65,636,549 which may be considered the theoretical rate base. The available net of $4,129,000, as estimated above, is equal to a fair return of 6.3 per cent on this estimated theoretical rate base. The view might be taken that a deduction of the investment in so-called unproductive local services is not justified because both the revenues and the expenses to be attributed to such service are reflected in our set-up. This view does not seem tenable since it is in the record that the expenses of such services exceed the revenue and an adjustment of operating figures would tend to further increase the net available for fair return. This result would apparently remain, even if the loss from property to be abandoned or salvaged were spread over an adequate amortization period. It may be noted that the net earnings indicated above are still in excess of 6 per cent on the valuation figure of $67,021,455.

It is in the record that there is a large amount of deferred maintenance of road and equipment that should be taken care of within the next few years if service is not further to deteriorate. The amount necessary to bring the plant to a satisfactory and normal operating

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condition is estimated in the neighborhood of $2,000,000. If this deferred maintenance were spread over four years, operating expenses would be increased annually by $500,000. The fair return, on that assumption, would be reduced accordingly. There would, however, be a certain decrease in the current abnormally high operating expenses as they are reflected in the statement above and more efficient operation would have a favorable effect on net earnings. The rates proposed in this decision are intended to establish a normal and permanent rate structure, to the extent that the term "permanent" can be used in relation to any public utility rates. Extraordinary and temporary expenses should not, therefore, be charged against a short period, especially if such extra costs result in permanent benefits to the carrier.

We conclude that, in view of all the circumstances as they are on record in this proceeding, a fair return of approximately 6 per cent on the rate base indicated above is reasonable and that the rates fixed in this decision, when this test is applied, must be considered as just and reasonable rates.

11. Relation of Pacific Electric Railway Company and Southern Pacific Company.

The Southern Pacific Company, through stock ownership, owns and controls the Pacific Electric Railway Company. The Southern Pacific in the past has financed and is still financing the Pacific Electric and applicant would probably have gone through a receivership, or reorganization, if it had not been for this financial backing.

Nothing has been found in the investigation made by the Commission indicating any concealment of transactions between the two companies. Applicant's accounts are kept as if no ownership relation existed between the two companies and the accounting system is in accordance, in every respect, with the classifications prescribed by the Interstate Commerce Commission and this Commission.

There is no reason to believe that the Southern Pacific unfairly profits at the expense of the Pacific Electric. The parent company has received no return on its capital invested in the Pacific Electric other than such interest as has been paid on money loaned. No dividends on the stock have ever been earned or paid and, since 1914, the total bond interest has not been earned. It has been the practice for the Southern Pacific Company to advance the necessary money to pay the interest coupons of outside owners, transferring the amounts for interest due to the open account against the Pacific Electric.

It has been suggested in this proceeding that the Southern Pacific makes a large indirect profit by reason of the Pacific Electric turning over to the steam railroad a very valuable freight business that otherwise would go to other roads. The facts are these: the gross earnings

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of the Southern Pacific on freight business obtained through the Pacific Electric will not exceed $2,500,000 per year. There appears to be no method of obtaining the exact net operating revenue from this business, but it will not exceed 50 per cent of this amount and it is our conclusion that the Southern Pacific would receive the same amount of freight from the Pacific Electric, regardless of ownership, because of competitive conditions with other carriers in the districts served. With reference to new capital required by the company for extensions, additions and betterments, we are satisfied that such money has been advanced by the Southern Pacific under more liberal terms than an independent company could have realized in the open market.

Under the relation existing between the two companies the Pacific Electric has been, and is now, enabled to obtain the use of additional rolling equipment, a facility which would be more difficult to secure and more expensive under other ownership.

It has been suggested that the local management in Los Angeles has not sufficient control over the property and is handicapped by a long distance control from New York. In this respect, it may be said the Pacific Electric is in the same position as the Southern Pacific Company, which is also controlled from New York. For all practical and operating purposes, the operating and business control of this property rests in Los Angeles and San Francisco.

On the whole, we are satisfied that its relation to the Southern Pacific Company is of benefit and advantage, not only to the applicant, but also to the community it serves.

We propose the following order:

ORDER.

Pacific Electric Railway Company having asked the Commission to make a comprehensive examination, investigation and survey of its rate and service situation and to authorize a complete revision of its rate schedule on a permanent basis and applying for an order authorizing it to establish and collect such increased permanent rates as shall be found by the Commission to be just and reasonable, such investigation having been made by the Commission, public hearings having been held, and the Commission basing its findings upon a full consideration of the entire record in the consolidated cases, as set forth in the opinion preceding this order, the Commission hereby finds as a fact that applicant's present fares are discriminatory, insufficient, unjust and unreasonable, and that the fares hereinafter set forth are, under existing conditions, found to be reasonable and should be authorized, subject to the conditions stated in this order.

Basing this order on the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order;

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It is hereby ordered, that the Pacific Electric Railway Company be and the same is hereby authorized to establish within twenty (20) days from the date of this order, a schedule of rates and fares constructed on the following basis:

Interurban Fares.

One-way fares	2.75 cents per mile
Round-trip fares	2.25 cents per mile

Beach Excursion Fares.

A round-trip rate of 70 cents, sold only on Saturdays, Sundays and holidays, between Los Angeles and all beach resorts—Port Los Angeles on the north to Anaheim Landing on the south.

Commutation Fares.

10-ride, individual	2.0 cents per mile
30-ride, family	1.75 cents per mile
Individual calendar month	1 to 10 miles, 1.2 cents per mile
	11 to 15 miles, 1.08 cents per mile
	16 to 20 miles, 0.96 cents per mile
	Over 20 miles, 0.9 cents per mile

All interurban fares shall be constructed on actual mileage, except in communities where it is necessary to zone certain terminal points:

Minimum interurban one-way fare, 6 cents, except that the minimum interurban one-way fare on lines to and from Los Angeles will be 10 cents; this to apply to all lines except the Santa Monica line via the Hollywood line.

Minimum interurban round-trip fare, 12 cents.

Minimum interurban commutation fare, 6½ cents per ride.

Fare to zone comprising Redondo Beach, Hermosa Beach and Manhattan Beach to apply via either Del Rey line or via Gardena.

Discontinue application of all fares between interurban lines and local lines in Pasadena, Santa Monica, Venice and Long Beach.

Interurban fares to apply only to the terminus of the interurban line on which the fare is paid.

For Pasadena, Santa Monica-Venice and Long Beach issue two classes of 60-ride individual commutation fares—one good only on the interurban line without change of cars, the other, a two-coupon ticket, giving transportation to all local or interurban cars in the zone; this latter ticket to be $1.80 higher than the first named ticket.

In lieu of the present 60-ride individual commutation ticket, sell an individual calendar month ticket with coupons numbered from 1 to 365 throughout the year, with two coupons of the same number providing for two trips daily, one in each direction.

Excursion and Special Rates.

To be consistent with rates fixed above and special tariff to be filed by company for Commission's approval.

Local Fares.

At Los Angeles establish two six (6) cent fare zones, as follows:

Local line	*Limit of inner zone*
Hollywood line	Sanborn Junction
Santa Monica Boulevard line	Sanborn Junction
Edendale line	End of line
Echo Park Avenue line	End of line
West 16th Street line	Vineyard
Santa Monica Air line	11th avenue
Watts line	Slauson Junction
Sierra Vista line	Indian Village
South Pasadena line	Sycamore Grove

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Local line	*Limit of outer zone*
Hollywood line	Laurel Canyon
Santa Monica Boulevard line	Quint
Highland Avenue line	Cahuenga line
Watts line	Watts
Sierra Vista line	Sierra Vista
South Pasadena line	Thorne street
Annandale line	Adelaide place

Through fare between the inner and outer zones, 10 cents.

Proper transfers to be issued to connecting lines within the inner zone.

Where a fare-breaking point is served by two or more lines the fares to be established shall be based on the short-line mileage, except at points where a central station is selected in a zoned community.

In computing and applying all increased fares authorized herein, fractions of a half cent or over will be increased to the next whole cent; fractions are to be disregarded when less than one-half cent.

It is hereby further ordered, that the Pacific Electric Railway Company be authorized to publish fares in accordance with this order which may be in violation of section 21 of the State Constitution and of section 24(*a*) of the Public Utilities Act.

Adjustments not specifically authorized in this order may be referred to the Commission for informal consideration.

The authority herein granted is subject to the following conditions:

1. Applicant shall submit to the Commission, within thirty (30) days and prior to the effective date of the rates fixed herein, plans satisfactory to the Commission for improvement in the Hollywood service as suggested in the opinion preceding this order, and applicant shall further, and within the same time, satisfy this Commission that the necessary financial arrangements have been made to provide for the capital necessary for the improvement in the Hollywood service, as approved by the Commission, and to the end that the improvements may be installed and constructed in the shortest possible time.

2. Applicant shall, within thirty (30) days and prior to the effective date of the rates fixed herein, file with the Commission its stipulation that it will, upon further order of this Commission, adopt and institute a universal transfer arrangement in the city of Los Angeles between the local lines of applicant and the lines of the Los Angeles Railway on such terms as may appear just and reasonable to the Commission; provided, that this Commission will make a similar order to the Los Angeles Railway Corporation in the rate proceeding now pending and affecting that company; and provided, further, that the Commission will fix such terms as may be just and reasonable between the two companies.

3. Applicant shall enter into negotiations with the authorities of local communities outside of the city of Los Angeles in all cases where the local service is not now on a self-sustaining basis and where there is no prospect that with present rates and service it can be put on such self-sustaining basis, and shall, within six (6) months from the date of this order, make application to this Commission showing that

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such local service can be made self-sustaining or applying for permission to abandon such service.

4. In order that the Commission may keep informed of the effect of the rates proposed herein applicant shall, until further notice, furnish monthly and in such form as may be indicated by the Commission, the following information for each preceding calendar month:

(a) Detailed statement of operating revenues and expenses, showing separately freight and passenger operations.

(b) Analysis of passenger traffic, showing traffic statistics by individual lines.

(c) Statement of number of persons employed, kind of employment and amount of wages paid, with comparison of wage scales for preceding month.

(d) Statement showing steps taken by applicant to comply with suggestions for improving condition of equipment, for taking care of deferred maintenance and with reference to other suggestions looking toward greater operating efficiency contained in the opinion preceding this order.

The Commission reserves the right to make such further orders in this proceeding relating to service and rates as may appear just and reasonable.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of December, 1921.

DECISION NO. 9929.

IN THE MATTER OF THE APPLICATION OF KLAMATH TELEPHONE AND TELEGRAPH COMPANY, A COPARTNERSHIP, AUTHORIZING THE DISCONTINUANCE OF LINE TO WILLOW CREEK, CALIFORNIA.

Application No. 6688.

Decided December 27, 1921.

Messrs. J. H. and *Joseph Hessig*, for Applicant.
Lewis Morton, *A. J. Sylva*, *Evert Wise*, Protestants.

BY THE COMMISSION.

OPINION.

Klamath Telephone and Telegraph Company, applicant in this proceeding, owns and operates a telephone system in portions of Siskiyou County, California, and Klamath County, Oregon. Its business in the State of California is confined to lines classified as toll lines. Part of its property consists of a line extending from the town of

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Ager, Siskiyou County, California, in an easterly direction, through a farming settlement to Willow Creek for a distance of approximately fourteen (14) miles, serving at the present time nine (9) subscribers. Formerly this line extended farther, and served more subscribers, but a farmer's line having been built parallel to applicant's line, several subscribers discontinued applicant's service and joined the farmer line, at which time applicant abandoned the unused portion of its line. Applicant now seeks to abandon the remaining portion of the line, claiming that the revenue received therefrom is insufficient to warrant its operation.

A public hearing was held before Examiner Satterwhite at Hornbrook, on October 3, 1921, at which time certain subscribers of this line appeared and protested against its abandonment.

This line, though classed as a toll line by applicant, is connected with the exchange of The Pacific Telephone and Telegraph Company at Ager, and applicant pays the Pacific Company its authorized farmer line rate of 25 cents per month for service for each subscriber on the line. Applicant, in turn, has been billing these subscribers at a minimum rate of $1 per month each, thus receiving 75 cents per month net, or $9 per year per subscriber to pay for the maintenance, depreciation and interest on investment, a total of $81 for the nine (9) subscribers on the entire line.

While it must not be expected that each line owned by a telephone utility shall itself yield a return on the investment therein over and above all operating expenses, provided a reasonable return is received from the operation of the utility's property as a whole, in this case this particular line is located in a community which is far distant from applicant's headquarters, thus making maintenance costs unusually high. In addition thereto the farmer line previously referred to now affords means of telephone communication both among the various farmers in the community and to distant points by the use of a switching station at Bogus.

Protestants testified that they did not wish the service discontinued which is given over this line, although at least two of the nine (9) subscribers on the line already have service also over the farmer line. Applicant made an offer at the hearing to sell the line to the local subscribers who could then continue the service themselves directly as "farmer line" subscribers of The Pacific Telephone and Telegraph Company's exchange at Ager, and protestants promised to call a meeting of all interested parties to consider such purchase, and to notify the Commission of their decision. Such meeting has since been held, and Mr. Lewis Morton, one of the protestants, has written to the Commission stating that the subscribers on the line have decided

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to purchase it. Under the circumstances, it is our opinion that the application should be granted.

ORDER.

Klamath Telephone and Telegraph Company, owning and operating a telephone system in portions of Siskiyou County, California, and in Klamath County, Oregon having applied to the Railroad Commission for authority to discontinue service and abandon its line from Ager, Siskiyou County, California to Willow Creek, also in Siskiyou County, California, a public hearing having been held, the Commission being fully apprised and it appearing that the application should be granted;

It is hereby ordered, that applicant be and hereby is authorized to discontinue service on its line from Ager to Willow Creek, such discontinuance to become and be effective on and after January 1, 1922.

Dated at San Francisco, California, this twenty-seventh day of December, 1921.

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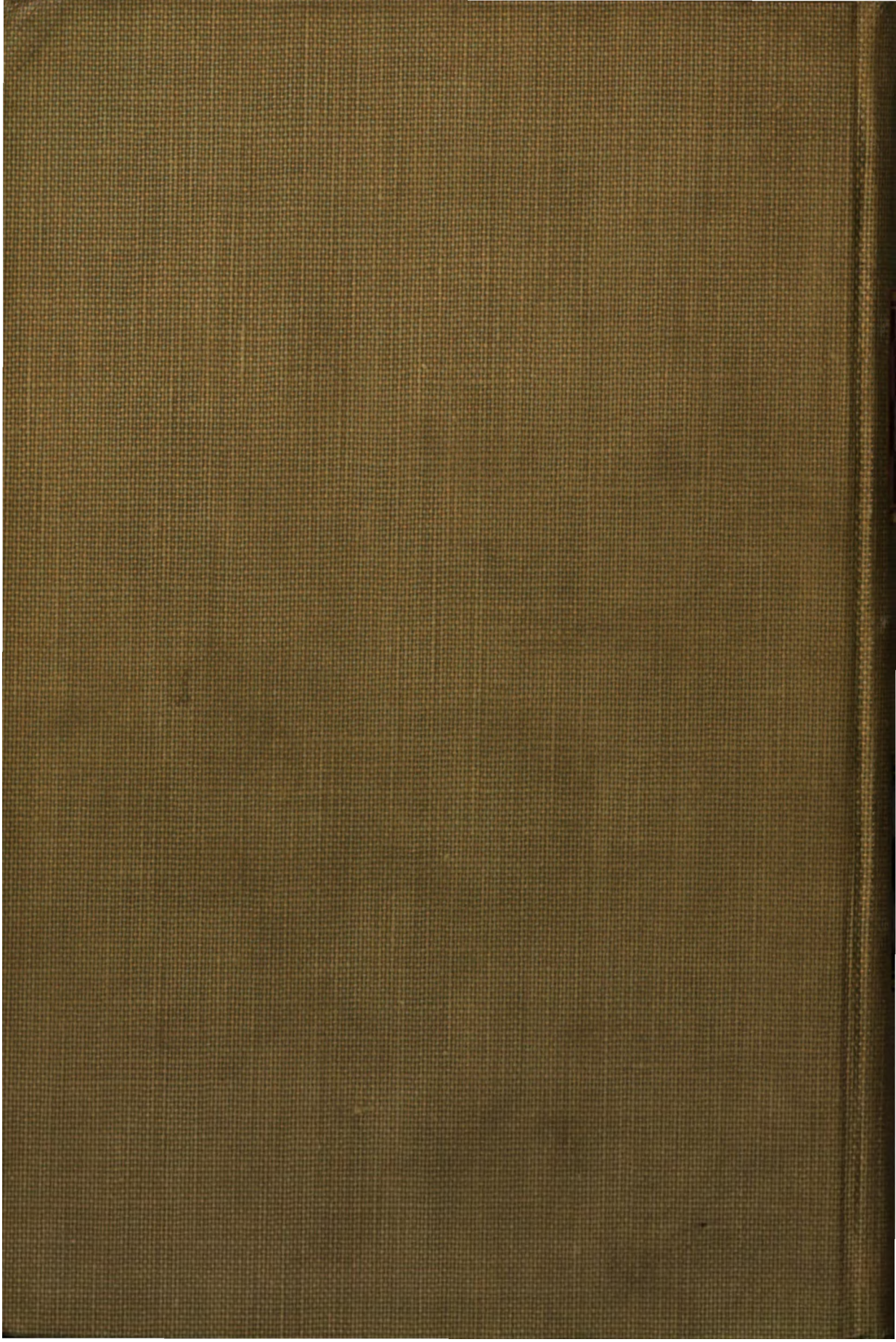

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